

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



September 24 2021

NOTICE TO MEMBERS OF THE BAR AND THE PUBLIC

Public Comment Opportunity Expires on October 1, 2021, at 5:00 p.m.

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

CIVIL RULES

DUCivR 5-1	Filing and Electronic Notification (Amended) After receiving and reviewing a public comment, the Advisory Committee has added an additional subsection about the process an unrepresented party needs to follow for revoking email filing, electronic notification, or both.
DUCivR 83-1.1	Attorneys – Admission to Practice (Amended) Amended the Pro Hac Vice subsection to clarify that an attorney, who is an active member in good standing in the bar of any state or the District of Columbia and maintains a law office in Utah, may practice in this court while awaiting admission to the Utah State Bar. Also, identifies the steps an attorney must take when either admitted or denied admission to the Utah State Bar.

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. The deadline for submitting suggestions or proposals to be considered during the next local rules amendment cycle is May 1, 2022.

DUCivR 5-1 FILING AND ELECTRONIC NOTIFICATION

(a) Electronic Filing.

Except as otherwise permitted in this rule, a party authorized to electronically file must sign and file documents as required in the District of Utah CM/ECF and Efiling Administrative Procedures Manual (ECF Procedures Manual).

(b) Email Filing and Electronic Notification of Case Activity.

(a) Unrepresented Parties.

(A) *Registration for Email Filing and Electronic Notification.* An unrepresented party may register to email documents to the Clerk's Office for filing and to receive email notification of case activity.

(i) *Form.* To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed (utdecf_clerk@utd.uscourts.gov) to the Clerk's Office.

(ii) *Certification.* By signing the form, the party certifies that:

- (a) documents will be emailed to the court in appropriately sized PDF format consistent with the requirements in the ECF Procedures Manual;
- (b) documents will meet the redaction requirements outlined in DUCivR 5.2-1, or the party will email a motion to file the documents under seal consistent with DUCivR 5-3, to the Clerk's Office for filing;
- (c) an appropriate electronic signature, as outlined in Section II(A) of the ECF Procedures Manual, will be used on all documents;

- (d) the formatting requirements outlined in DUCivR 10-1 and the ECF Procedures Manual will be followed;
 - (e) consent is given to receive by email all filings that are required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49;
 - (f) service by email constitutes service under the above rules, and the right to service by mail is waived;
 - (g) under Fed. R. Civ. P. 5, all documents will be served on parties who are not served through the court's CM/ECF system using mail, hand-delivery, or some other agreed-upon method;
 - (h) electronic notification requires a separate account with Public Access to Court Electronic Records (PACER), and PACER may require payment of fees to view documents;
 - (i) a valid email address will be provided to receive court communications and notices; and
 - (j) notification of any name, mailing address, or email address changes will be immediately emailed to the Clerk's Office for filing.
- (iii) *Email Subject Line.* When emailing documents to the Clerk's Office for filing, the subject line must include the case number and document name.
- (iv) *Filing Date.* Except for case-initiating documents, the filing date for a document is the date the email is sent.
- (v) *Email Notification in All Cases.* An unrepresented party who registers to receive electronic notification of case activity will

automatically receive email notification in all cases in which they are a party in this court.

(vi) *Highly Sensitive Material*. If a document contains highly sensitive material, as defined in General Order 21-002, that could be compromised by email transmission, then the document must be hand-delivered or mailed to the Clerk's Office for filing.

(vii) *Sanction*. The court may, on its own or on a party's motion, revoke an unrepresented party's ability to file by email and/or receive electronic notice after a determination that the privilege has been abused. If this occurs, the unrepresented party will cease to receive email notification of case activity in all cases in which they are a party.

Examples of circumstances when a party abuses the privilege include repeatedly submitting:

- (a) nonconforming documents or exhibits to the clerk for filing;
- (b) incomplete documents to avoid missing a deadline;
- (c) documents that needlessly complicate the proceedings or harass the court, the clerk, or the opposing party; or
- (d) documents containing viruses, worms, ransomware, spyware, malware, or other files compromising the security of the court's computer systems.

(B) *Registration for Electronic Notification (Without Email Filing)*. An unrepresented party may register to receive electronic notification of case activity without registering for email filing.

- (i) *Form.* To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed (utdecf_clerk@utd.uscourts.gov) to the Clerk's Office.
 - (ii) *Certification.* In filing the form, the unrepresented party consents to sections (b)(1)(A)(ii)(e)-(j) above.
 - (iii) *Filing and Service.* A party receiving electronic notification must continue to file all documents in paper and effectuate service consistent with the federal rules and sections (b)(1)(A)(ii)(e)-(g) above.
 - (iv) *Email Notification in All Cases.* An unrepresented party who registers to receive electronic notification of case activity will automatically receive email notification in all cases in which they are a party in this court.
- (b) Attorneys.
- (A) *Exceptions to Electronic Filing.* An attorney must email, mail, or hand-deliver to the Clerk's Office a document for filing when it:
 - (i) initiates a case;
 - (ii) is a proposed summons or writ; or
 - (iii) is to be filed in a sealed case.
 - (B) *Filing Date.* Except for case-initiating documents, the filing date of an emailed document is the date the email is sent.
 - (C) *Highly Sensitive Material.* If a document contains highly sensitive material, as defined in General Order 21-002, that could be compromised by email transmission, then the document must be hand-delivered or mailed to the Clerk's Office for filing.

(c) Revoking Email Filing or Electronic Notification.

To revoke email filing, electronic notification, or both, an unrepresented party must send the Revocation of Email Filing or Electronic Notification Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed

(utdecf_clerk@utd.uscourts.gov) to the Clerk's Office. The Clerk's Office will

docket a notice that email filing, electronic notice, or both, has been revoked.

When electronic notification has been revoked, documents must be served on an unrepresented party in paper or as otherwise agreed or ordered.

(d) Paper Filing.

(1) Delivery. A document filed in paper must be delivered to the Clerk's Office in Salt Lake City as follows:

(A) in person during the business hours set forth in DUCivR 77-1; or

(B) by mail.

(2) Receipt by Clerk's Office. Upon receipt of a paper document, the Clerk's Office will place a receipt date stamp on the document. The document will be electronically filed as of the receipt date stamp.

(3) Courtesy Copy. A party does not need to provide a courtesy copy unless specified in the [judge's preferences](#) on the court's website. A party must clearly label any courtesy copy on the caption page.

(4) Service.

(A) *Service on Unrepresented Parties*. A party filing a paper document must serve a copy on any unrepresented party who does not receive electronic notification of case activity.

(B) *Calculation of Dates*.

- (i) A paper served and filed by U.S. mail is timely if the postmark is on or before the last day for filing or service, regardless of the receipt date stamp.
- (ii) If the postmark is illegible or missing, the paper document is presumed served and filed 3 days before the court's receipt date stamp.
- (iii) The deadline to respond to a filed paper document will be calculated from the Clerk's Office receipt date stamp.
- (iv) This rule does not affect the response time to a document that is not filed but is served on a party (e.g., a response to a discovery request, which is controlled by the Federal Rules of Civil Procedure).

(5) Retention of a Paper Document. The Clerk's Office will not retain a paper document after it has been electronically filed.

(e) Filing Deadline in Absence of Rule or Court Order.

When a filing deadline is not specified in an applicable rule or the court has not set a deadline, a document related to a court proceeding must be filed a minimum of 2 business days before the scheduled proceeding.

DUCivR 83-1.1 ATTORNEYS - ADMISSION TO PRACTICE

(a) Attorney Admission.

- (1) Eligibility. An attorney who is an active member in good standing of the Utah State Bar is eligible for admission to this court's bar.
- (2) Application. An eligible attorney must complete an online application using Public Access to Court Electronic Records (PACER).
- (3) Pro Bono Service Requirement. By applying to become a member of this court's bar, an attorney agrees to accept a reasonable number of pro bono assignments when requested by the court, except when the attorney is employed by a government agency that precludes accepting pro bono assignments.
- (4) Admission Fee. Once the court reviews an application and verifies the attorney's membership status with the Utah State Bar, the court will send to the attorney an email containing a link to pay the admission fee. The admission fee must be paid within 30 days from the date of the email or the application will be denied, and the attorney must complete a new application.
- (5) Active Membership Status. An attorney who is admitted to this court's bar must renew membership as set forth in DUCivR 83-1.2. After an attorney is admitted, the attorney is not required to pay the annual registration fee until at least 12 months have passed since admission.

(b) Federal Attorney Admission.

- (1) Eligibility. An attorney employed by the United States, its agencies, or the Federal Public Defender's Office, who is an active member and in good standing in the bar of any state or the District of Columbia, may practice in this district in the attorney's official capacity.

- (2) Application. An eligible federal attorney must complete an online application using PACER.
- (3) Pro Bono Service Requirement. A federal attorney is exempt from the court's pro bono service requirement.
- (4) Fees. A federal attorney is exempt from paying the admission and annual registration fees.

(c) Pro Hac Vice Admission.

- (1) Eligibility. An attorney (PHV Applicant) who is neither an active member of the Utah State Bar nor a Federal Attorney but who is an active member in good standing in the bar of any state or the District of Columbia may be admitted pro hac vice for the limited purpose of appearing in a case in this district.

(A) *Restrictions on Pro Hac Vice Admission*. Pro hac vice admission is not available to any attorney who:

- (i) is a member of the Utah State Bar;
- (ii) except as provided in subsection (B), maintains any law office in Utah; or
- (iii) has already been admitted pro hac vice in 3 unrelated cases in the previous 5 years in this district, unless the court finds good cause for the attorney not seeking admission to the Utah State Bar.

(B) *Exemption from Restrictions*. A PHV Applicant who is an active member in good standing in the bar of any state or the District of Columbia and who maintains a law office in Utah may be admitted pro hac vice while awaiting admission to the Utah State Bar. Within 45 days after notice from the Utah State Bar of admission, denial of

admission, or, under Utah State Bar Admission Rule 14-809, upon termination of eligibility to practice, the PHV Applicant must—

- (i) when admitted, apply for Attorney Admission under subsection (a) above and pay the required admission fee; or
- (ii) when denied admission or upon termination of eligibility to practice, cease practicing law in this court under subsection (c)(1) and:

- (a) send a notice of denial of admission or termination of eligibility to practice to the Clerk's Office (utdecf_clerk@utd.uscourts.gov); and
- (b) file a withdrawal of counsel or a substitution of counsel in every case in which the PHV Applicant has appeared.

- (2) Local Counsel. The PHV Applicant must associate with an active, local member (Local Counsel) of this court's bar who resides in the State of Utah. Local Counsel must:

- (A) file a motion seeking pro hac vice admission for the PHV Applicant;
- (B) attach the application and a proposed order as exhibits;
- (C) consent to appear in the matter; and
- (D) pay the pro hac vice admission fee at the time of filing the motion

An attorney admitted pro hac vice may not appear without Local Counsel, unless the court orders otherwise.

- (3) Objection to PHV Admission. A party opposing pro hac vice admission must file an objection within 14 days of the filing of the motion, even if the court has granted the motion. Local Counsel or the PHV Applicant need not file a response after an objection is filed unless ordered to do so by the court.

- (4) Revocation of PHV Admission. The court may revoke a PHV Attorney's admission for good cause shown, including but not limited to, violation of this court's rules or failure to comply with court orders.

(d) Rules and Conduct.

- (1) An attorney who practices in this court must comply with the Local Rules of Practice, District of Utah CM/ECF and Efiling Administrative Procedures Manual, Utah Rules of Professional Conduct, and Utah Standards of Professionalism and Civility. An attorney's conduct and professionalism are governed by these rules and the manual.
- (2) An attorney who practices in this court must register to efile and receive electronic notifications of case activity.
- (3) An attorney who practices in this court must maintain valid and current contact information, including mailing, email, and telephone, in PACER.