

**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**

<b>DUCivR 5-1</b>	<b>Filing and Electronic Notification (Amended)</b> 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.
<b>DUCivR 83-1.1</b>	<b>Attorneys – Admission to Practice (Amended)</b> 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](mailto: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). ~~The ECF Procedures Manual is available at <http://www.utd.uscourts.gov>.~~

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

**(a) Unrepresented Parties.**

**(A) *Registration for Email Filing and Electronic Notification* Filing.** An unrepresented party may register to email documents ~~request permission to send documents by email~~ 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 ~~by conventionally~~ and receive electronic notification of case filings after filing ~~mailing the a completed Motion for Email Filing and Notification Registration Form 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](mailto:utdecf_clerk@utd.uscourts.gov)) to the Clerk's Office. ~~utdecf\_clerk@utd.uscourts.gov.~~ The registration form motion is available on the court's websi

**(a)(ii) *Certification.*** ~~te.~~ The motion ~~In the registration form~~ By signing the form, the unrepresented party must include verification that the party certifies that:

~~(a) will submit~~ documents will be submitted ~~emailed to~~  
the court in appropriately sized PDF format ~~and~~  
within the consistent with the requirements in the size  
limitations as contained in ~~required the~~ the ECF  
Procedures Manual;

(a)

~~(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;

(b)

~~(A) has a valid email address that has been provided to~~  
~~the court and will be used to submit documents for~~  
~~filing and to receive notices of case activity from the~~  
~~court;~~

~~(c) will use~~ an appropriate ~~digital/~~electronic signature ~~on~~  
~~filings,~~ as outlined in Section II(A) of the ECF  
Procedures Manual, will be used on all documents  
filings; and

(c)

~~(d) will comply with~~ the formatting and size requirements  
outlined in ~~Local Rule~~ DUCivR 10-1 and the ECF  
Procedures Manual will be followed; and.

(d)

~~(e) a valid email address will be provided to~~  
receive court communications and notices of case  
activity;

~~(f)~~ — 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;

~~(e)~~ \_\_\_\_\_

~~(g)~~ — service by email constitutes service under the above rules, and the right to service by mail is waived; ~~and~~

~~(f)~~ \_\_\_\_\_

— 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

~~(g)~~ 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;

~~(h)~~ \_\_\_\_\_

~~(i)~~ — a valid email address will be provided to receive court communications and notices; and the right to service by mail is waived; ~~and~~

~~(i)~~ \_\_\_\_\_

~~(j)~~ — written notification of any name, mailing address, or email address changes will be immediately filed emailed with to the Celerk's Oeffice for filing.

~~(i)~~ \_\_\_\_\_

~~(ii) — Email Subject Line. If the court grants the motion, t~~Upon~~After filing the registration form, the unrepresented party may email documents and exhibits for filing to the Clerk's Office for filing at utdecf\_clerk@utd.uscourts.gov. When emailing documents to the Clerk's Office for filing, ~~T~~the email subject line must include the case number and document name ~~in the subject line~~. The clerk will send an email confirming receipt to the party and then file the documents in the case.~~

(iii) —

~~(iii) — Filing Date. A~~Except for case-initiating documents, ~~t~~The filing date for a document ~~will be~~is considered filed as of the date ~~that~~ the email is ~~received by the clerk~~sent.

(iv) —

(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](mailto: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 ~~and~~ continue to file -all documents in paper and effectuate service consistent with the federal rules and sections (b)(1)(A)(ii)(e)-(g) above ~~in paper. To do this, the unrepresented~~

~~party must file with the Clerk's Office the Electronic Noticing Registration Form for Unrepresented Parties. A copy of the form is found on the court's website. In filing the form, the unrepresented party consents to sections (b)(1)(A)(vi)-(viii) 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.~~

~~(D) When an unrepresented party registers to receive email notification in any case pending before the court that party will automatically receive email notification of case activity in all cases in which they are a party.~~

~~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~~

~~documents containing viruses, worms, ransomware, spyware, malware, or other files compromising the security of the court's computer systems.~~

(b) Registered Efiler Attorneys.

~~(A) Exceptions to Electronic Filing. A registered efilern attorney must file documents electronically must email, mail, or hand-deliver to the Clerk's Office in the court's CM/ECF system, but may a document for filing when it:~~

~~send documents by email to the Clerk's Office for filing when:~~

~~(i) The document initiates a case or relates to a new case filing;~~

~~(ii) The document is a proposed summons or writ to be issued and filed by the clerk; or~~

~~(iii) The document is to be filed in a sealed case if the document does not contain sensitive material that could be compromised by email transmission.; or~~

~~Filing Date. Except for case-initiating documents, the filing date of~~

~~the Clerk's Office is unavailable for filing in paper.~~

~~(B) an emailed document is the date the email is received by the clerksent.~~

~~(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.

**(e)(d) Paper Filing.**

(1) Delivery. In all other circumstances, all pleadings and other case-related documents must be filed in paper must be delivered in 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.

~~(2)~~(3) Courtesy Copies. 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 with a copy.

(B) Calculation of Dates.~~If a document other than the case initiating document is served by mail, the postmark is the effective date of filing or service. If the postmark is illegible or missing, the filing or service date is presumed to be 3 days before receipt.~~

(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 the Clerk's Office files the document electronically in CM/ECF.~~

~~(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 of the document.~~

~~(iii) The deadline to respond to a filed paper document filed by will be calculated from the Clerk's Office receipt date stamp. date the Clerk's Office electronically files the paper in CM/ECF.~~

~~(iv) Nothing in this This rule does not affects the response time to respond to a document that is must not be filed with the court but is served on a party, (e.g., such as a time to respond to a response to a discovery request, which iss controlled by the Federal Rules of Civil Procedure).~~

~~Retention of a Paper Document. After the document submitted for service or filing via mail has been electronically filed, tThe Clerk's Office will not retain thea paper document after it has been electronically filed.~~

~~(5)~~

~~(3)~~

**~~(d)(e) Filing Time Requirements~~Deadline in Absence of Rule or Court Order.**

~~(1) If no~~When a filing time deadline is not specified in an applicable rule ~~and or the court has not set a no~~deadline has been set by the court, a document related to a court proceeding must be filed a minimum of 2 business days before the scheduled proceeding.

~~(2) If a document other than the complaint is served by mail, the postmark is the effective date of filing or service. If the postmark is illegible or missing, the filing or service date is presumed to be 3 days before receipt.~~

## **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) Exemptions 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.

~~(iii) —~~

(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.