

1 **Rule 10. Form of pleadings and other papers.**

2 **(a) Caption; names of parties; other necessary information.**

3 (a)(1) All pleadings and other papers filed with the court ~~shall~~must contain a
4 caption setting forth the name of the court, the title of the action, the file number, the
5 name of the pleading or other paper, and the name, if known, of the judge (and
6 commissioner if applicable) to whom the case is assigned. A party filing a claim for
7 relief, whether by original claim, counterclaim, cross-claim or third-party claim, ~~shall~~
8 must include in the caption the discovery tier for the case as determined under Rule
9 26.

10 (a)(2) In the complaint, the title of the action ~~shall~~must include the names of all
11 the parties, but other pleadings and papers need only state the name of the first
12 party on each side with an indication that there are other parties. A party whose
13 name is not known ~~shall~~must be designated by any name and the words "whose
14 true name is unknown." In an action in rem, unknown parties ~~shall~~must be
15 designated as "all unknown persons who claim any interest in the subject matter of
16 the action."

17 (a)(3) Every pleading and other paper filed with the court ~~shall~~must state in the
18 top left hand corner of the first page the name, address, email address, telephone
19 number and bar number of the attorney or party filing the paper, and, if filed by an
20 attorney, the party for whom it is filed.

21 (a)(4) A party filing a claim for relief, whether by original claim, counterclaim,
22 cross-claim or third-party claim, ~~shall~~must also file a completed cover sheet
23 substantially similar in form and content to the cover sheet approved by the Judicial
24 Council. The clerk may destroy the coversheet after recording the information it
25 contains.

26 **(b) Paragraphs; separate statements.** All statements of claim or defense ~~shall~~
27 must be made in numbered paragraphs. Each paragraph ~~shall~~must be limited as far as
28 practicable to a single set of circumstances; and a paragraph may be adopted by
29 reference in all succeeding pleadings. Each claim founded upon a separate transaction
30 or occurrence and each defense other than denials ~~shall~~must be stated in a separate

31 count or defense whenever a separation facilitates the clear presentation of the matters
32 set forth.

33 (c) **Adoption by reference; exhibits.** Statements in a paper may be adopted by
34 reference in a different part of the same or another paper. An exhibit to a paper is a part
35 thereof for all purposes.

36 (d) **Paper format.** A proposed document ready for signature by a court official must
37 have a top margin of not less than 2 inches on the first page and must otherwise follow
38 the format for all other pleadings and papers. All other pleadings and ~~ether~~ papers,
39 other than exhibits and court-approved forms, ~~shall~~must be 8½ inches wide x 11 inches
40 long, on white background, with ~~a top margin of not less than 2 inches, a right and left~~
41 ~~margin of~~ not less than 1 inch ~~and a bottom margin of not less than one-half inch, with~~
42 ~~text or images only on one side.~~ All text or images ~~shall~~must be clearly legible, ~~shall~~
43 must be double spaced, except for matters customarily single spaced, must be on one
44 side only and ~~shall~~must not be smaller than 12-point size.

45 (e) **Signature line.** The name of the person signing ~~shall~~must be typed or printed
46 under that person's signature. If a paper is electronically ~~signed filed~~, the paper ~~shall~~
47 must contain the typed or printed name of the signer ~~with or~~ without a graphic signature.
48 If a proposed document ready for signature by a court official is electronically filed, the
49 order must not include the official's signature line and must end with: "signature at top of
50 first page."

51 (f) **Non-conforming papers.** The clerk of the court ~~shall~~must examine all pleadings
52 and other papers filed with the court. If they are not prepared in conformity with
53 paragraphs (a) – (e), the clerk ~~shall~~must accept the filing but may require counsel to
54 substitute properly prepared papers for nonconforming papers. The clerk or the court
55 may waive the requirements of this rule for parties appearing pro se. For good cause
56 shown, the court may relieve any party of any requirement of this rule.

57 (g) **Replacing lost pleadings or papers.** If an original pleading or paper filed in any
58 action or proceeding is lost, the court may, upon motion, with or without notice,
59 authorize a copy thereof to be filed and used in lieu of the original.

60 (h) **No improper content.** The court may strike and disregard all or any part of a
61 pleading or other paper that contains redundant, immaterial, impertinent or scandalous
62 matter.

63 (i) **Electronic papers.**

64 (i)(1) Any reference in these rules to a writing, recording or image includes the
65 electronic version thereof.

66 (i)(2) A paper electronically signed and filed is the original.

67 (i)(3) An electronic copy of a paper, recording or image may be filed as though it
68 were the original. Proof of the original, if necessary, is governed by the Utah Rules of
69 Evidence.

70 (i)(4) An electronic copy of a paper ~~shall~~must conform to the format of the
71 original.

72 (i)(5) An electronically filed paper may contain links to other papers filed
73 simultaneously or already on file with the court and to electronically published
74 authority.

75 **Advisory Committee Notes**

76

1 **Rule 43. Evidence.**

2 (a) **Form.** In all trials, the testimony of witnesses shall be taken orally in open court,
3 unless otherwise provided by these rules, the Utah Rules of Evidence, or a statute of
4 this state. All evidence ~~shall be admitted which that~~ is admissible under the Utah Rules
5 of Evidence or other rules adopted by the Supreme Court shall be admitted.

6 (b) **Evidence on motions.** ~~When If~~ a motion is based on facts ~~not appearing of~~
7 outside the record, the court may hear the matter on affidavits, ~~presented by the~~
8 ~~respective parties, but the court may direct that the matter be heard wholly or partly on~~
9 ~~oral declarations,~~ testimony or depositions. If an affidavit is electronically filed, the party
10 or the party's attorney shall keep the original until the proceedings are concluded. If the
11 original is filed, the clerk of the court shall scan it and return it to the party or the party's
12 attorney, who shall keep it until the proceedings are concluded.

13

1 **Rule 74. Withdrawal of counsel.**

2 (a) **Notice of withdrawal.** An attorney may withdraw from the case by filing with the
3 court and serving on all parties a notice of withdrawal. The notice of withdrawal shall
4 include the address of the attorney's client and a statement that no motion is pending
5 and no hearing or trial has been set. If a motion is pending or a hearing or trial has been
6 set, an attorney may not withdraw except upon motion and order of the court. The
7 motion to withdraw shall describe the nature of any pending motion and the date and
8 purpose of any scheduled hearing or trial.

9 (b) **Withdrawal of limited appearance.** An attorney who has entered a limited
10 appearance under Rule 75 shall withdraw from the case ~~by filing and serving a notice of~~
11 ~~withdrawal~~ upon the conclusion of the purpose or proceeding identified in the Notice of
12 Limited Appearance:

13 **(b)(1) by filing and serving a notice of withdrawal; or**
14 **(b)(2) if permitted by the judge, by orally announcing the withdrawal on the record**
15 **in a proceeding in which all parties are present or represented.**

16 An attorney who seeks to withdraw before the conclusion of the purpose or
17 proceeding shall proceed under subdivision (a).

18 (c) **Notice to Appear or Appoint Counsel.** If an attorney withdraws other than
19 under subdivision (b), dies, is suspended from the practice of law, is disbarred, or is
20 removed from the case by the court, the opposing party shall serve a Notice to Appear
21 or Appoint Counsel on the unrepresented party, informing the party of the responsibility
22 to appear personally or appoint counsel. A copy of the Notice to Appear or Appoint
23 Counsel must be filed with the court. No further proceedings shall be held in the case
24 until 20 days after filing the Notice to Appear or Appoint Counsel unless the
25 unrepresented party waives the time requirement or unless otherwise ordered by the
26 court.

27 (d) **Substitution of counsel.** An attorney may replace the counsel of record by filing
28 and serving a notice of substitution of counsel signed by former counsel, new counsel
29 and the client. Court approval is not required if new counsel certifies in the notice of
30 substitution that counsel will comply with the existing hearing schedule and deadlines.

1 **Rule 75. Limited appearance.**

2 (a) **Purposes.** An attorney acting pursuant to an agreement with a party for limited
3 representation that complies with the Utah Rules of Professional Conduct may enter an
4 appearance limited to one or more of the following purposes:

5 (a)(1) filing a pleading or other paper;

6 (a)(2) acting as counsel for a specific motion;

7 (a)(3) acting as counsel for a specific discovery procedure;

8 (a)(4) acting as counsel for a specific hearing, including a trial, pretrial conference, or
9 an alternative dispute resolution proceeding; or

10 (a)(5) any other purpose with leave of the court.

11 (b) **Notice.** Before commencement of the limited appearance the attorney shall file a
12 Notice of Limited Appearance signed by the attorney and the party or, if permitted by the
13 judge, orally announce the limited appearance on the record in a proceeding in which all
14 parties are present or represented. The Notice shall specifically describe the purpose
15 and scope of the appearance and state that the party remains responsible for all
16 matters not specifically described in the Notice. The clerk shall enter on the docket the
17 attorney's name and a brief statement of the limited appearance. The Notice of Limited
18 Appearance and all actions taken pursuant to it are subject to Rule 11.

19 (c) **Motion to clarify.** Any party may move to clarify the description of the purpose
20 and scope of the limited appearance.

21 (d) **Party remains responsible.** A party on whose behalf an attorney enters a
22 limited appearance remains responsible for all matters not specifically described in the
23 Notice.

24

List of Deadline Changes in Conjunction with New Rule 6.

Rule	Change	To	Rule	Change	To	Rule	Change	To
3(a)	10	14	59(b)	10	14	74(c)	20	21
4(c)(2)	13	14	59(c)	10	14	101(b)	Delete "calendar"	
4(f)(1)	20	21	59(c)	20	21	101(c)	5	7
5(b)(1)(B)	5	7	59(d)	10	14			
7(c)(1)	5	7	59(e)	10	14			
7(c)(1)	10	14	60(b)	3 months	90			
7(f)	15	21	62(a)	10	14			
7(f)	5	7	63(b)(1)(B)	20	21			
12(a)	20	21	63(b)(1)(B)(iii)	20	21			
12(a)(1)	10	14	64(d)(3)(C)	10	14			
12(a)(2)	10	14	64(d)(3)(D)(ii)	10	14			
12(e)	10	14	64(e)(2)	10	14			
12(f)	20	21	64(f)(1)	5	7			
14(a)	10	14	64A(i)(5)	10	14			
15(a)	20	21	64D(g)	7	14			
15(a)	10	14	64D(h)	10	14			
17(c)(2)	20	21	64D(i)	20	21			
17(c)(3)	20	21	64(D)(l)(3)	7	14			
27(a)(2)	20	21	64E(d)(1)	10	14			
31(a)(4)	7	14	65A(b)(2)	10	14			
38(b)	10	14	65C(g)(3)	20	21			
38(c)	10	14	65C(i)	Delete "plus time..."				
50(b)	10	14	65C(m)(1)	5	7			
50(c)(2)	10	14	66(f)	10	14			
52(b)	10	14	68(c)(3)	10	14			
53(d)(1)	20	21	68(c)(4)	10	14			
53(e)(2)	10	14	69C(f)	20	21			
54(d)(2)	5	14	69C(f)	7	14			
54(d)(2)	7	14	69C(i)(2)	5	7			
56(a)	20	21	69C(i)(2)	15	21			

Tab 3

Principles of Rulemaking

(1) Certainty

The rules should provide a predictable process.

(2) Clarity

The rules should be written using plain language principles, adopting the federal style amendments when appropriate.

(3) Comprehensiveness

The rules should include all procedures to avoid unwritten rules.

(4) Consistency

The rules should be internally consistent. There is value to state rules that conform to the federal rules. Lawyers practicing in both courts benefit from a uniform procedure. The state courts can rely on a large body of federal caselaw. The state rules should establish procedures different from the federal rule only when there is a sound reason for doing so.

(5) Improvement

An amendment should solve an identifiable problem.

(6) Input

Before the 45-day comment period, the committee will try to obtain comments and suggestions from lawyers and judges who might be particularly affected by an amendment. The committee will consider all comments.

(7) Priority

The committee will assign a priority level to each request to amend the rules. Requests from the legislature and supreme court will take priority over other priorities. Within a priority level, the committee will consider the requests in the order in which they are made, unless combining requests will better address the matter.

(8) Simplicity

The process established by the rule should reach its outcome as simply as possible while allowing every party an equitable opportunity to investigate and present its case. Exceptions and options should be limited and clearly stated.

(9) Stability

The rules should not be amended unless there is a need.

Tab 4

1 **Rule 37. Discovery and disclosure motions; Sanctions.**

2 (a) **Motion for order compelling disclosure or discovery; motion for protective**
3 **order.**

4 (a)(1) A party may move to compel disclosure or discovery and for appropriate
5 sanctions if another party:

6 (a)(1)(A) fails to disclose, fails to respond to a discovery request, or makes an
7 evasive or incomplete disclosure or response to a request for discovery;

8 (a)(1)(B) fails to disclose, fails to respond to a discovery request, fails to
9 supplement a disclosure or response or makes a supplemental disclosure or
10 response without an adequate explanation of why the additional or correct
11 information was not previously provided;

12 (a)(1)(C) objects to a discovery request ;

13 (a)(1)(D) impedes, delays, or frustrates the fair examination of a witness; or

14 (a)(1)(E) otherwise fails to make full and complete disclosure or discovery.

15 (a)(2) A party or the person from whom disclosure is required or discovery is
16 sought may move for an order of protection.

17 (a)(3) A motion may be made to the court in which the action is pending, or, on
18 matters relating to a deposition or a document subpoena, to the court in the district
19 where the deposition is being taken or where the subpoena was served. A motion for
20 an order to a nonparty witness shall be made to the court in the district where the
21 deposition is being taken or where the subpoena was served.

22 ~~(a)(3) The moving party must attach a copy of the request for discovery, the~~
23 ~~disclosure, or the response at issue. The moving party must also attach a~~
24 ~~certification that the moving party has in good faith conferred or attempted to confer~~
25 ~~with the other affected parties in an effort to secure the disclosure or discovery~~
26 ~~without court action and that the discovery being sought is proportional under Rule~~
27 ~~26(b)(2).~~

28 ~~(b) **Motion for protective order.**~~

29 ~~(b)(1) A party or the person from whom disclosure is required or discovery is~~
30 ~~sought may move for an order of protection. The moving party shall attach to the~~

31 ~~motion a copy of the request for discovery or the response at issue. The moving~~
32 ~~party shall also attach a certification that the moving party has in good faith~~
33 ~~conferred or attempted to confer with other affected parties to resolve the dispute~~
34 ~~without court action.~~

35 ~~(b)(2) If the motion raises issues of proportionality under Rule 26(b)(2), the party~~
36 ~~seeking the discovery has the burden of demonstrating that the information being~~
37 ~~sought is proportional.~~

38 (b) Expedited procedures for discovery motions. A motion under Rule 26 for
39 extraordinary discovery or a motion under Rule 45 to quash a subpoena must follow the
40 procedures of this paragraph. A motion under this rule for a protective order or for an
41 order compelling disclosure or discovery—but not a motion for sanctions—must follow
42 the procedures of this paragraph.

43 (b)(1) Motion length and content. The motion must be no more than four
44 pages, not including permitted attachments, and must include in the following
45 order:

46 (b)(1)(A) the relief sought and the grounds for the relief sought stated
47 succinctly and with particularity;

48 (b)(1)(B) a certification that the requesting party has in good faith
49 conferred or attempted to confer with the other affected parties in an effort
50 to resolve the dispute without court action;

51 (b)(1)(C) a statement regarding proportionality under Rule 26(b)(2); and

52 (b)(1)(D) if the motion is a motion for extraordinary discovery, a statement
53 certifying that the party has reviewed and approved a discovery budget.

54 (b)(2) Response length and content. No more than 7 days after the moving
55 party has filed the motion, the non-moving party may file a response. The
56 response must be no more than four pages, not including permitted attachments,
57 and must **address the issues raised in the motion** include in the following order:

58 (b)(2)(A) a succinct statement regarding the relief sought and the grounds
59 for the relief sought; and

60 (b)(2)(B) a statement regarding proportionality under Rule 26(b)(2).

61 (b)(3) **Attachments.** Unless required by law the moving party and responding
62 party must attach only a copy of the request for discovery, the disclosure, or the
63 response at issue and a proposed order.

64 (b)(4) **Decision.** Upon filing of the response or expiration of the time to do so,
65 either party may and the moving party must file a Request to Submit for Decision
66 under Rule 7(d). The court will promptly decide the motion. The court may decide
67 the motion on the pleadings and papers unless the court schedules a hearing.
68 The hearing may be by telephone conference or other electronic communication.
69 The court may order additional briefing and establish a briefing schedule.

70 (c) **Orders.** The court may make orders regarding disclosure or discovery or to
71 protect a party or person from discovery being conducted in bad faith or from
72 annoyance, embarrassment, oppression, or undue burden or expense, or to achieve
73 proportionality under Rule 26(b)(2), including one or more of the following:

74 (c)(1) that the discovery not be had;

75 (c)(2) that the discovery may be had only on specified terms and conditions,
76 including a designation of the time or place;

77 (c)(3) that the discovery may be had only by a method of discovery other than
78 that selected by the party seeking discovery;

79 (c)(4) that certain matters not be inquired into, or that the scope of the discovery
80 be limited to certain matters;

81 (c)(5) that discovery be conducted with no one present except persons
82 designated by the court;

83 (c)(6) that a deposition after being sealed be opened only by order of the court;

84 (c)(7) that a trade secret or other confidential information not be disclosed or be
85 disclosed only in a designated way;

86 (c)(8) that the parties simultaneously file specified documents or information
87 enclosed in sealed envelopes to be opened as directed by the court;

88 (c)(9) that a question about a statement or opinion of fact or the application of law
89 to fact not be answered until after designated discovery has been completed or until
90 a pretrial conference or other later time; or

91 (c)(10) that the costs, expenses and attorney fees of discovery be allocated
92 among the parties as justice requires.

93 (c)(11) If a protective order terminates a deposition, it ~~shall~~may be resumed only
94 upon the order of the court in which the action is pending.

95 (d) **Expenses and sanctions for motions.** If the motion to compel or for a
96 protective order is granted or denied, or if a party provides disclosure or discovery or
97 withdraws a disclosure or discovery request after a motion is filed, the court may order
98 the party, witness or attorney to pay the reasonable expenses and attorney fees
99 incurred on account of the motion if the court finds that the party, witness, or attorney
100 did not act in good faith or asserted a position that was not substantially justified. A
101 motion to compel or for a protective order does not suspend or toll the time to complete
102 standard discovery.

103 (e) **Failure to comply with order.**

104 (e)(1) Sanctions by court in district where deposition is taken. Failure to follow an
105 order of the court in the district in which the deposition is being taken or where the
106 document subpoena was served is contempt of that court.

107 (e)(2) Sanctions by court in which action is pending. Unless the court finds that
108 the failure was substantially justified, the court in which the action is pending may
109 impose appropriate sanctions for the failure to follow its orders, including the
110 following:

111 (e)(2)(A) deem the matter or any other designated facts to be established in
112 accordance with the claim or defense of the party obtaining the order;

113 (e)(2)(B) prohibit the disobedient party from supporting or opposing
114 designated claims or defenses or from introducing designated matters into
115 evidence;

116 (e)(2)(C) stay further proceedings until the order is obeyed;

117 (e)(2)(D) dismiss all or part of the action, strike all or part of the pleadings, or
118 render judgment by default on all or part of the action;

119 (e)(2)(E) order the party or the attorney to pay the reasonable expenses,
120 including attorney fees, caused by the failure;

121 (e)(2)(F) treat the failure to obey an order, other than an order to submit to a
122 physical or mental examination, as contempt of court; and

123 (e)(2)(G) instruct the jury regarding an adverse inference.

124 (f) **Expenses on failure to admit.** If a party fails to admit the genuineness of any
125 document or the truth of any matter as requested under Rule 36, and if the party
126 requesting the admissions proves the genuineness of the document or the truth of the
127 matter, the party requesting the admissions may apply to the court for an order requiring
128 the other party to pay the reasonable expenses incurred in making that proof, including
129 reasonable attorney fees. The court ~~shall~~must make the order unless it finds that:

130 (f)(1) the request was held objectionable pursuant to Rule 36(a);

131 (f)(2) the admission sought was of no substantial importance;

132 (f)(3) there were reasonable grounds to believe that the party failing to admit
133 might prevail on the matter;

134 (f)(4) that the request is not proportional under Rule 26(b)(2); or

135 (f)(5) there were other good reasons for the failure to admit.

136 (g) **Failure of party to attend at own deposition.** The court on motion may take
137 any action authorized by paragraph (e)(2) if a party or an officer, director, or managing
138 agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf
139 of a party fails to appear before the officer taking the deposition, after proper service of
140 the notice. The failure to act described in this paragraph may not be excused on the
141 ground that the discovery sought is objectionable unless the party failing to act has
142 applied for a protective order under paragraph (b).

143 (h) **Failure to disclose.** If a party fails to disclose a witness, document or other
144 material, or to amend a prior response to discovery as required by Rule 26(d), that party
145 ~~shall~~may not ~~be permitted to~~ use the witness, document or other material at any
146 hearing unless the failure to disclose is harmless or the party shows good cause for the
147 failure to disclose. In addition to or in lieu of this sanction, the court on motion may take
148 any action authorized by paragraph (e)(2).

149 (i) **Failure to preserve evidence.** Nothing in this rule limits the inherent power of the
150 court to take any action authorized by paragraph (e)(2) if a party destroys, conceals,

151 alters, tampers with or fails to preserve a document, tangible item, electronic data or
152 other evidence in violation of a duty. Absent exceptional circumstances, a court may not
153 impose sanctions under these rules on a party for failing to provide electronically stored
154 information lost as a result of the routine, good-faith operation of an electronic
155 information system.

156 **Advisory Committee Notes**

157 [\[Add to existing notes\]](#)

158 [Paragraph \(c\) adopts the expedited procedures for discovery motions formerly](#)
159 [approved by the Judicial Council. The expedited procedures are intended to be](#)
160 [complete, without the need to refer to Rule 7, unless the judge directs that Rule 7](#)
161 [applies.](#)

162

1 **Rule 56. Summary judgment.**

2 (a) **Motion for summary judgment or partial summary judgment.** A party may
3 move for summary judgment, identifying each claim or defense—or the part of each
4 claim or defense—on which summary judgment is sought. The court ~~shall~~must grant
5 summary judgment if the movant shows that there is no genuine dispute as to any
6 material fact and the movant is entitled to judgment as a matter of law. The court should
7 state on the record the reasons for granting or denying the motion. The motion and
8 memoranda must follow Rule 7 as supplemented below.

9 (a)(1) Instead of a statement of the facts under Rule 7(c)(2), a motion for
10 summary judgment must contain a statement of material facts claimed not to be
11 genuinely disputed. Each fact must be separately stated in numbered paragraphs
12 and supported by citing to materials in the record under paragraph (c)(1) of this rule.

13 (a)(2) Instead of a statement of the facts under Rule 7(d)(2), a memorandum
14 opposing the motion must include a verbatim restatement of each of the movant's
15 facts that is disputed with an explanation of the grounds for the dispute supported by
16 citing to materials in the record under paragraph (c)(1) of this rule. The
17 memorandum may contain a separate statement of additional facts in dispute, which
18 must be separately stated in numbered paragraphs and similarly supported.

19 (a)(3) The motion and the memorandum opposing the motion may contain a
20 concise statement of facts and allegations for the limited purpose of providing
21 background and context for the case, dispute, and motion. The statement of facts or
22 allegations may cite supporting evidence.

23 (a)(4) Each fact set forth in the motion or in the memorandum opposing the
24 motion that is not disputed is deemed admitted for the purposes of the motion.

25 (b) **Time to file a motion.** A party may file a motion for summary judgment at any
26 time until 30 days after the close of all discovery.

27 (c) **Procedures.**

28 (c)(1) **Supporting factual positions.** A party asserting that a fact cannot be
29 genuinely disputed or is genuinely disputed must support the assertion by:

30 (c)(1)(A) citing to particular parts of materials in the record, including
31 depositions, documents, electronically stored information, affidavits or
32 declarations, stipulations (including those made for purposes of the motion only),
33 admissions, interrogatory answers, or other materials; or

34 (c)(1)(B) showing that the materials cited do not establish the absence or
35 presence of a genuine dispute, or that an adverse party cannot produce
36 admissible evidence to support the fact.

37 (c)(2) **Objection that a fact is not supported by admissible evidence.** A party
38 may object that the material cited to support or dispute a fact cannot be presented in
39 a form that would be admissible in evidence.

40 (c)(3) **Materials not cited.** The court need consider only the cited materials, but it
41 may consider other materials in the record.

42 (c)(4) **Affidavits or declarations.** An affidavit or declaration used to support or
43 oppose a motion must be made on personal knowledge, must set out facts that
44 would be admissible in evidence, and must show that the affiant or declarant is
45 competent to testify on the matters stated.

46 (d) **When facts are unavailable to the nonmovant.** If a nonmovant shows by
47 affidavit or declaration that, for specified reasons, it cannot present facts essential to
48 justify its opposition, the court may:

49 (d)(1) defer considering the motion or deny it;

50 (d)(2) allow time to obtain affidavits or declarations or to take discovery; or

51 (d)(3) issue any other appropriate order.

52 (e) **Failing to properly support or address a fact.** If a party fails to properly
53 support an assertion of fact or fails to properly address another party's assertion of fact
54 as required by Rule 56(c), the court may:

55 (e)(1) give an opportunity to properly support or address the fact;

56 (e)(2) consider the fact undisputed for purposes of the motion;

57 (e)(3) grant summary judgment if the motion and supporting materials—including
58 the facts considered undisputed—show that the movant is entitled to it; or

59 (e)(4) issue any other appropriate order.

60 (f) **Judgment independent of the motion.** After giving notice and a reasonable time
61 to respond, the court may:

62 (f)(1) grant summary judgment for a nonmovant;

63 (f)(2) grant the motion on grounds not raised by a party; or

64 (f)(3) consider summary judgment on its own after identifying for the parties
65 material facts that may not be genuinely in dispute.

66 (g) **Failing to grant all the requested relief.** If the court does not grant all the relief
67 requested by the motion, it may enter an order stating any material fact—including an
68 item of damages or other relief—that is not genuinely in dispute and treating the fact as
69 established in the case.

70 (h) **Affidavit or declaration submitted in bad faith.** If satisfied that an affidavit or
71 declaration under this rule is submitted in bad faith or solely for delay, the court—after
72 notice and a reasonable time to respond—may order the submitting party to pay the
73 other party the reasonable expenses, including attorney's fees, it incurred as a result.
74 ~~An~~ The court may also hold an offending party or attorney ~~may also be held~~ in contempt
75 or ~~subjected to order~~ other appropriate sanctions.

76 **Advisor Committee Notes**

77 The object of the 2014 amendment is to adopt the style amendments of Federal
78 Rule of Civil Procedure 56 without changing the substantive Utah law. The 2014
79 amendment also moves to this rule the special briefing requirements of motions for
80 summary judgment formerly found in Rule 7.

81 Nothing in these changes should be interpreted as changing the line of Utah cases
82 that the party with the burden of proof on an issue must meet its initial burden to present
83 materials in the record establishing that no genuine issue of material fact exists and that
84 the party with the burden of proof is entitled to judgment as a matter of law. Only then
85 must the party without the burden of proof demonstrate that there is a genuine dispute
86 as to a material fact. Orvis v. Johnson, 2008 UT 2, Harline v. Barker, 912 P.2d 433 (Utah
87 1996), K & T, Inc. v. Koroulis, 888 P.2d 623, (Utah 1994)—contrary to the holding in
88 Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986).

89

1 **Rule 56. Summary judgment.**

2 (a) **For claimant.** A party seeking to recover upon a claim, counterclaim or cross-
3 claim or to obtain a declaratory judgment may, at any time after the expiration of 20-21
4 days from the commencement of the action or after service of a motion for summary
5 judgment by the adverse party, move for summary judgment upon all or any part
6 thereof.

7 (b) **For defending party.** A party against whom a claim, counterclaim, or cross-claim
8 is asserted or a declaratory judgment is sought, may, at any time, move for summary
9 judgment as to all or any part thereof.

10 (c) **Motion and proceedings thereon.** ~~The motion, memoranda and affidavits shall~~
11 ~~be in accordance with Rule 7.~~ The judgment sought shall be rendered if ~~the pleadings,~~
12 ~~depositions, answers to interrogatories, and admissions on file, together with the~~
13 ~~affidavits, if any, show that~~ there is no genuine issue as to any material fact and ~~that~~ the
14 moving party is entitled to a judgment as a matter of law. An interlocutory summary
15 judgment, ~~interlocutory in character,~~ may be rendered on the issue of liability ~~alone~~
16 although there is a genuine issue as to the amount of damages. The motion and
17 memoranda must follow Rule 7 as supplemented below.

18 (c)(1) Instead of a statement of the facts under Rule 7(c)(2), a motion for
19 summary judgment must contain a statement of material facts claimed not to be
20 genuinely disputed. Each fact must be separately stated in numbered paragraphs
21 and supported by citing to relevant materials, such as affidavits, declarations,
22 stipulations, admissions, discovery or other materials.

23 (c)(2) Instead of a statement of the facts under Rule 7(d)(2), an opposing party
24 must include in its initial memorandum a verbatim restatement of each of the moving
25 party's facts that is disputed with an explanation of the grounds for the dispute
26 supported by citing to relevant materials, such as affidavits, declarations,
27 stipulations, admissions, discovery or other materials. The opposing party's initial
28 memorandum may contain a separate statement of additional facts in dispute, which
29 must be separately stated in numbered paragraphs and similarly supported.

30 (c)(3) The motion and memorandum opposing the motion may contain a concise
31 statement of facts and allegations for the limited purpose of providing background
32 and context for the case, dispute, and motion. The statement of facts or allegations
33 may cite supporting evidence.

34 (c)(4) Each fact set forth in the motion or memorandum opposing the motion that
35 is not disputed is deemed admitted for the purposes of the motion.

36 (d) **Case not fully adjudicated on motion.** If on motion under this rule judgment is
37 not rendered upon the whole case or for all the relief asked and a trial is necessary, the
38 court at the hearing of the motion, by examining the pleadings and the evidence before
39 it and by interrogating counsel, shall if practicable ascertain what material facts exist
40 without substantial controversy and what material facts are actually and in good faith
41 controverted. It shall thereupon make an order specifying the facts that appear without
42 substantial controversy, including the extent to which the amount of damages or other
43 relief is not in controversy, and directing such further proceedings in the action as are
44 just. Upon the trial of the action the facts so specified shall be deemed established, and
45 the trial shall be conducted accordingly.

46 (e) **Form of affidavits; further testimony; defense required.** Supporting and
47 opposing affidavits shall be made on personal knowledge, shall set forth such facts as
48 would be admissible in evidence, and shall show affirmatively that the affiant is
49 competent to testify to the matters stated therein. Sworn or certified copies of all papers
50 or parts thereof referred to in an affidavit shall be attached thereto or served therewith.
51 The court may permit affidavits to be supplemented or opposed by depositions, answers
52 to interrogatories, or further affidavits. When a motion for summary judgment is made
53 and supported as provided in this rule, an adverse party may not rest upon the mere
54 allegations or denials of the pleadings, but the response, by affidavits or as otherwise
55 provided in this rule, must set forth specific facts showing that there is a genuine issue
56 for trial. Summary judgment, if appropriate, shall be entered against a party failing to file
57 such a response.

58 (f) **When affidavits are unavailable.** Should it appear from the affidavits of a party
59 opposing the motion that the party cannot for reasons stated present by affidavit facts

60 essential to justify the party's opposition, the court may refuse the application for
61 judgment or may order a continuance to permit affidavits to be obtained or depositions
62 to be taken or discovery to be had or may make such other order as is just.

63 (g) **Affidavits made in bad faith.** If any of the affidavits presented pursuant to this
64 rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith
65 order the party presenting them to pay to the other party the amount of the reasonable
66 expenses which the filing of the affidavits caused, including reasonable attorney's fees,
67 and any offending party or attorney may be adjudged guilty of contempt.

68

1 **Rule 58A. Entry of judgment; abstract of judgment.**

2 (a) **Separate document.** Every judgment and amended judgment must be set out in
 3 a separate document, but, unless a separate document is requested by a party, a
 4 separate document is not required for an order disposing of a motion:

5 (a)(1) for judgment under Rule 50(b);

6 (a)(2) to amend or make additional findings under Rule 52(b);

7 (a)(3) for a new trial, or to alter or amend the judgment, under Rule 59;

8 (a)(4) for relief under Rule 60; or

9 (a)(5) for attorney's fees under Rule 73.

10 ~~(a) Judgment upon the verdict of a jury.~~ (b) **Without the court's direction.**

11 Unless the court otherwise directs and subject to Rule 54(b), the prevailing party,
 12 without awaiting the court's direction, must promptly prepare the judgment when:

13 (b)(1) the jury returns a general verdict;

14 (b)(2) the court awards only costs or a sum certain; or

15 (b)(3) the court denies all relief.

16 ~~the~~ The clerk ~~shall~~ must promptly sign and ~~file~~ record the judgment ~~upon the verdict~~
 17 ~~of a jury in the register of actions.~~

18 (c) **Court's approval required.** If there is ~~the~~ the court grants relief not described in
 19 paragraph (b) or if the jury returns a special verdict or a general verdict ~~accompanied by~~
 20 with answers to ~~interrogatories returned by a jury questions,~~ the court ~~shall~~ direct the
 21 ~~appropriate~~ must promptly approve the form of the judgment, which the clerk ~~shall~~ must
 22 promptly ~~sign and file~~ record in the register of actions.

23 ~~(b) Judgment in other cases.~~ (d) **Judge's signature; judgment filed with the**
 24 clerk. Except as provided in paragraphs ~~(a)-(b)~~ and ~~(f)(h)~~ and Rule 55(b)(1), all
 25 judgments ~~shall~~ must be signed by the judge and filed with the clerk.

26 ~~(e)-(e)~~ **When judgment entered; recording.**

27 (e)(1) If a separate document is not required, A judgment is complete and ~~shall~~
 28 ~~be deemed~~ is entered for all purposes, except the creation of a lien on real property,
 29 when it is signed and ~~filed as provided in paragraphs (a) or (b)~~ recorded in the

30 register of actions. ~~The clerk shall immediately record the judgment in the register of~~
31 ~~actions and the register of judgments.~~

32 (e)(2) If a separate document is required, a judgment is complete and is entered
33 for all purposes, except the creation of a lien on real property, when it is recorded in
34 the register of actions and the earlier of these events occurs:

35 (e)(a)(A) the judgment is set out in a separate document; or

36 (e)(2)(B) 150 days have run from the clerk recording the judgment in the
37 register of actions.

38 ~~(d)-(f)~~ **Notice of judgment.** The party preparing the judgment ~~shall~~must promptly
39 serve a copy of the signed judgment on the other parties in the manner provided in Rule
40 5 and promptly file proof of service with the court. Except as provided in Rule of
41 Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this
42 requirement.

43 ~~(e)-(g)~~ **Judgment after death of a party.** If a party dies after a verdict or decision
44 upon any issue of fact and before judgment, judgment may ~~nevertheless~~ be entered.

45 ~~(f)-(h)~~ **Judgment by confession.** If a judgment by confession is authorized by
46 statute, the party seeking the judgment must file with the clerk a statement, verified by
47 the defendant, to the following effect:

48 ~~(f)(1)-(h)(1)~~ If the judgment is for money due or to become due, it ~~shall~~must
49 concisely state the claim and that the specified sum is due or to become due.

50 ~~(f)(2)-(h)(2)~~ If the judgment is for the purpose of securing the plaintiff against a
51 contingent liability, it must state concisely the claim and that the specified sum does
52 not exceed the liability.

53 ~~(f)(3)-(h)(3)~~ It must authorize the entry of judgment for the specified sum.

54 The clerk ~~shall~~must sign ~~and file~~ the judgment for the specified sum, with costs of
55 entry, if any, and record it in the register of actions ~~and the register of judgments.~~

56 ~~(g)-(i)~~ **Abstract of judgment.** The clerk may abstract a judgment by a signed writing
57 under seal of the court that:

58 ~~(g)(1)~~ (i)(1) identifies the court, the case name, the case number, the judge or
59 clerk that signed the judgment, the date the judgment was signed, and the date the
60 judgment was recorded in the registry of actions and the registry of judgments;

61 ~~(g)(2)~~ (1)(2) states whether the time for appeal has passed and whether an
62 appeal has been filed;

63 ~~(g)(3)~~ (i)(3) states whether the judgment has been stayed and when the stay will
64 expire; and

65 ~~(g)(4)~~ (i)(4) if the language of the judgment is known to the clerk, quotes verbatim
66 the operative language of the judgment or attaches a copy of the judgment.

67

1 **Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.**

2 (a) **Pleadings.** ~~There shall be~~ Only these pleadings are allowed:

3 (a)(1) a complaint; and

4 (a)(2) an answer to a complaint;

5 (a)(3) a reply to a counterclaim an answer to a counterclaim designated as a
6 counterclaim;

7 (a)(4) an answer to a cross claim, if the answer contains a cross claim;

8 (a)(5) a third party complaint, if a person who was not an original party is
9 summoned under the provisions of Rule 14; and

10 (a)(6) a third party an answer to a third party complaint; if a third party complaint
11 is served and

12 (a)(7) a reply to an answer if permitted by the court. No other pleading shall be
13 allowed, except that the court may order a reply to an answer or a third party
14 answer.

15 (b)(4) **Motions.** An application to the court for an order ~~shall~~ must be by motion
16 which, ~~unless made during a hearing or trial or in proceedings before a court~~
17 ~~commissioner, shall be made in accordance with this rule. A motion shall be in writing~~
18 ~~and state succinctly and with particularity the relief sought and the grounds for the relief~~
19 ~~sought~~ except for the following, must be made in accordance with this rule.

20 (b)(1) A motion made during a hearing or trial may be made orally.

21 (b)(2) A motion made in proceedings before a court commissioner must follow the
22 procedures of Rule 101.

23 (b)(3) A motion under Rule 26 for extraordinary discovery must follow the
24 procedures of Rule 37(b).

25 (b)(4) A motion under Rule 37 for a protective order or for an order compelling
26 disclosure or discovery—but not a motion for sanctions—must follow the procedures
27 of Rule 37(b).

28 (b)(5) A motion under Rule 45 to quash a subpoena must follow the procedures
29 of Rule 37(b).

30 (b)(6) A motion for summary judgment must follow the procedures of this rule,
31 supplemented by the requirements of Rule 56.

32 (c) **Form, name and content of motion.** The rules governing captions and other
33 matters of form in pleadings apply to motions and other papers. The moving party must
34 title the motion with substantially the words: "Motion to [short phrase describing the
35 relief sought]." The motion must be 15 pages or less, not counting documents cited in
36 the motion. An approved over-length motion must contain a table of contents and a
37 table of authorities with page references. The motion must contain under appropriate
38 headings and in the following order:

39 (c)(1) a concise statement of the relief sought and the grounds for the relief
40 sought;

41 (c)(2) a concise statement of the facts as claimed by the party necessary for a
42 decision;

43 (c)(3) an argument citing authority for the relief requested; and

44 (c)(4) relevant portions of documents cited in the motion, such as affidavits or
45 discovery materials or opinions, statutes or rules.

46 (d) **Name and content of memorandum opposing the motion.** Within 14 days
47 after the motion is filed, a party opposing the motion must file a memorandum in
48 opposition. The party opposing the motion must title the memorandum with substantially
49 the words: "Memorandum opposing the motion to [short phrase describing the relief
50 sought]." The memorandum must be 15 pages or less, not counting objections to
51 evidence and documents cited in the memorandum. An approved over-length
52 memorandum must contain a table of contents and a table of authorities with page
53 references. The memorandum must contain under appropriate headings and in the
54 following order:

55 (d)(1) a concise statement of the grounds for opposing the relief sought;

56 (d)(2) a concise statement of the facts as claimed by the party necessary for a
57 decision;

58 (d)(3) an argument citing authority opposing the relief requested;

59 (d)(4) objections to evidence in the motion, citing authority for the objection; and

60 (d)(5) relevant portions of documents cited in the memorandum, such as
61 affidavits or discovery materials or opinions, statutes or rules.

62 (e) **Name and content of reply memorandum.** Within 7 days after the
63 memorandum opposing the motion is filed, the moving party may file a reply
64 memorandum, which must be limited to rebuttal of new matters raised in the
65 memorandum opposing the motion. The memorandum must be titled “Memorandum
66 replying to the memorandum opposing the motion to [short phrase describing the relief
67 sought].” The memorandum must be 5 pages or less, not counting objections to
68 evidence, response to objections, and documents cited in the memorandum. The
69 memorandum must contain under appropriate headings and in the following order:

70 (e)(1) a concise statement of the new matter raised in the memorandum
71 opposing the motion;

72 (e)(2) an argument citing authority rebutting the new matter raised in the
73 memorandum opposing the motion;

74 (e)(3) objections to evidence in the memorandum opposing the motion, citing
75 authority for the objection; and

76 (e)(4) response to objections made in the memorandum opposing the motion,
77 citing authority for the response;

78 (e)(5) relevant portions of documents cited in the memorandum, such as
79 affidavits or discovery materials or opinions, statutes or rules.

80 (f) **Response to objections made in the reply memorandum.** If the reply
81 memorandum includes an objection to evidence, the non-moving party may file a
82 response to the objection no later than 7 days after the reply memorandum is filed.

83 ~~(b)(2) **Limit on order to show cause.** An application to the court for an order to~~
84 ~~show cause shall be made only for enforcement of an existing order or for sanctions~~
85 ~~for violating an existing order. An application for an order to show cause must be~~
86 ~~supported by an affidavit sufficient to show cause to believe a party has violated a~~
87 ~~court order.~~

88 ~~(c) **Memoranda.**~~

89 ~~(c)(1) **Memoranda required, exceptions, filing times.** All motions, except~~
90 ~~uncontested or ex parte motions, shall be accompanied by a supporting~~
91 ~~memorandum. Within ten days after service of the motion and supporting~~
92 ~~memorandum, a party opposing the motion shall file a memorandum in opposition.~~
93 ~~Within five days after service of the memorandum in opposition, the moving party~~
94 ~~may file a reply memorandum, which shall be limited to rebuttal of matters raised in~~
95 ~~the memorandum in opposition. No other memoranda will be considered without~~
96 ~~leave of court. A party may attach a proposed order to its initial memorandum.~~

97 ~~(c)(2) **Length.** Initial memoranda shall not exceed 10 pages of argument without~~
98 ~~leave of the court. Reply memoranda shall not exceed 5 pages of argument without~~
99 ~~leave of the court. The court may permit a party to file an over-length memorandum~~
100 ~~upon ex parte application and a showing of good cause.~~

101 ~~(c)(3) **Content.**~~

102 ~~(c)(3)(A) A memorandum supporting a motion for summary judgment shall~~
103 ~~contain a statement of material facts as to which the moving party contends no~~
104 ~~genuine issue exists. Each fact shall be separately stated and numbered and~~
105 ~~supported by citation to relevant materials, such as affidavits or discovery~~
106 ~~materials. Each fact set forth in the moving party's memorandum is deemed~~
107 ~~admitted for the purpose of summary judgment unless controverted by the~~
108 ~~responding party.~~

109 ~~(c)(3)(B) A memorandum opposing a motion for summary judgment shall~~
110 ~~contain a verbatim restatement of each of the moving party's facts that is~~
111 ~~controverted, and may contain a separate statement of additional facts in~~
112 ~~dispute. For each of the moving party's facts that is controverted, the opposing~~
113 ~~party shall provide an explanation of the grounds for any dispute, supported by~~
114 ~~citation to relevant materials, such as affidavits or discovery materials. For any~~
115 ~~additional facts set forth in the opposing memorandum, each fact shall be~~
116 ~~separately stated and numbered and supported by citation to supporting~~
117 ~~materials, such as affidavits or discovery materials.~~

118 ~~(c)(3)(C) A memorandum with more than 10 pages of argument shall contain~~
119 ~~a table of contents and a table of authorities with page references.~~

120 ~~(c)(3)(D) A party may attach as exhibits to a memorandum relevant portions of~~
121 ~~documents cited in the memorandum, such as affidavits or discovery materials.~~

122 ~~(d)-(g)~~ **Request to submit for decision.** When briefing is complete or the time for
123 briefing has expired, either party may and the moving party must file a “Request to
124 Submit for Decision.” The request to submit for decision ~~shall~~must state the date on
125 which the motion was ~~served~~ filed, the date the opposing memorandum, if any, was
126 served filed, the date the reply memorandum, if any, was ~~served~~ filed, and whether a
127 hearing has been requested. If no party files a request, the motion will not be submitted
128 for decision.

129 ~~(e)-(h)~~ **Hearings.** The court may hold a hearing on any motion. A party may request
130 a hearing in the motion, in a memorandum or in the request to submit for decision. A
131 request for hearing ~~shall~~must be separately identified in the caption of the document
132 containing the request. The court ~~shall~~must grant a request for a hearing on a motion
133 under Rule 56 or a motion that would dispose of the action or any claim or defense in
134 the action unless the court finds that the motion or opposition to the motion is frivolous
135 or the issue has been authoritatively decided.

136 (i) Citation of supplemental authority. A party may file notice of citations to
137 significant authority that comes to the party’s attention after the party’s memorandum
138 has been filed or after oral argument but before decision. The notice must state, without
139 argument, the reason for the citations and the page of the memorandum or the point
140 argued orally to which the citations apply. Any other party may file a response promptly.
141 The response must be similarly limited.

142 ~~(f)-(j)~~ **Orders.**

143 ~~(f)(1) An order includes every direction of the court, including a minute order~~
144 ~~entered in writing, not included in a judgment. An order for the payment of money~~
145 ~~may be enforced in the same manner as if it were a judgment. Except as otherwise~~
146 ~~provided by these rules, any order made without notice to the adverse party may be~~

147 ~~vacated or modified by the judge who made it with or without notice. Orders shall~~
148 ~~state whether they are entered upon trial, stipulation, motion or the court's initiative.~~

149 ~~(f)(2) Unless the court approves the proposed order submitted with an initial~~
150 ~~memorandum, or unless otherwise directed by the court, the prevailing party shall,~~
151 ~~within fifteen days after the court's decision, serve upon the other parties a proposed~~
152 ~~order in conformity with the court's decision. Objections to the proposed order shall~~
153 ~~be filed within five days after service. The party preparing the order shall file the~~
154 ~~proposed order upon being served with an objection or upon expiration of the time to~~
155 ~~object.~~

156 ~~(f)(3) Unless otherwise directed by the court, all orders shall be prepared as~~
157 ~~separate documents and shall not incorporate any matter by reference.~~

158 (j)(1) **Signed, written decision is an order.** A written decision of the court
159 signed by a judge however denominated—including “order,” “ruling,” “memorandum
160 decision,” “opinion,” or “minute entry”—is an order. An order must state whether it is
161 entered upon trial, stipulation, motion or the court's initiative. Unless otherwise
162 directed by the court, an order must be prepared as a separate document and must
163 not incorporate any matter by reference.

164 (j)(2) **Appealable orders.** The order is a final judgment that can be appealed if it
165 satisfies Rule 54(b) and Rule 58A.

166 (j)(3) **Order to pay money.** An order for the payment of money can be enforced
167 in the same manner as if it were a judgment.

168 (j)(4) **Ex parte orders.** Except as otherwise provided by these rules, an order
169 made without notice to the other parties can be vacated or modified by the judge
170 who made it with or without notice.

171 (j)(5) **Preparing and serving a proposed order.** Within 14 days after the court's
172 decision the prevailing party must prepare a proposed order conforming to the
173 decision and serve the proposed order on the other parties for review and approval
174 as to form. The court may direct that a party other than the prevailing party prepare
175 and serve the proposed order. The court may prepare and serve the order. If the

176 prevailing party or party assigned to prepare the order fails to serve a proposed
177 order within 14 days, any party may prepare and serve a proposed order.

178 (j)(6) **Approval as to form.** A party's approval as to the form of a proposed order
179 certifies that the proposed order accurately reflects the court's direction. Approval as
180 to form does not waive any objections.

181 (j)(7) **Objecting to a proposed order.** A party may object to the form of the
182 proposed order by filing an objection within 7 days after the order is served.

183 (j)(8) **Filing proposed order.** The party preparing a proposed order must file it:

184 (j)(8)(A) after the order has been approved as to form by all parties; (The
185 party preparing the proposed order must indicate whether the approval was
186 received in person, by telephone, by signature, by email or by other means.)

187 (j)(8)(B) after the time to file an objection to the form of the order has expired;
188 (The party preparing the proposed order must also file a certificate of service of
189 the proposed order conforming to Rule 5.) or

190 (j)(8)(B) within two days after a party has filed an objection to the form of the
191 order. (The party preparing the proposed order may also file a response to the
192 objection.)

193 (j)(9) **Proposed orders prohibited; exceptions.** A party must not file a proposed
194 order concurrently with a motion or memorandum or with a request to submit for
195 decision, except a proposed order must be filed with the following motions:

196 (j)(9)(A) an ex parte motion;

197 (j)(9)(B) a stipulated or unopposed motion; and

198 (j)(9)(C) a discovery motion with expedited procedures under Rule 37(b).

199 (k) **Motion in opposing memorandum or reply memorandum prohibited.** A party
200 must not make a motion in a memorandum opposing a motion or in a reply
201 memorandum. A party who objects to evidence in another party's motion or
202 memorandum must not file a motion to strike that evidence. The proper procedure is to
203 include in the subsequent memorandum an objection to the evidence.

204 (l) **Over-length motion or memorandum.** The court may permit a party to file an
205 over-length motion or memorandum upon ex parte motion and a showing of good
206 cause.

207 (m) **Limited statement of facts and authority.** No statement of facts and legal
208 authorities beyond the concise statement of the relief sought and the grounds for the
209 relief sought required in paragraph (c) is required for the following motions:

210 (m)(1) motion to allow an over-length motion or memorandum;

211 (m)(2) motion to extend the time to perform an act, if the motion is filed before the
212 time to perform the act has expired;

213 (m)(3) motion to continue a hearing;

214 (m)(4) motion to appoint a guardian ad litem;

215 (m)(5) motion to substitute parties;

216 (m)(6) motion to refer the action to or withdraw it from the court's ADR program;

217 (m)(7) motion for a settlement conference; and

218 (m)(8) motion to approve a stipulation of the parties.

219 (n) **Limit on order to show cause.** An application to the court for an order to show
220 cause must be filed only for enforcement of an existing order or for sanctions for
221 violating an existing order. An application for an order to show cause must be supported
222 by an affidavit sufficient to show cause to believe a party has violated a court order.

223 **Advisory Committee Notes**

224 [Add to existing notes]

225 The purpose of the 2014 amendments is to:

226 (1) combine a motion and its supporting memorandum in one document, as in the
227 federal court;

228 (2) eliminate motions to strike evidence relied upon to support or oppose a motion;

229 (3) substantially reduce proposed orders;

230 (4) bring regularity to motion practice; and

231 (5) return the analysis of whether an appeal from an order is proper to the traditional
232 analysis under Rule 54 and Rule 58A, notwithstanding the holdings in:

233 Central Utah Water Conservancy District v. King, 2013 UT 13;

234 [Giusti v. Sterling Wentworth Corp., 2009 UT 2; and](#)
235 [Code v. Utah Dept of Health, 2007 UT 43, and.](#)
236