

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

2 **(a) Pleadings.** Only these pleadings are allowed:

3 (a)(1) a complaint;

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

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

6 (a)(4) an answer to a crossclaim;

7 (a)(5) a third-party complaint;

8 (a)(6) an answer to a third-party complaint; and

9 (a)(7) a reply to an answer if ordered by the court.

10 **(b) Motions.** A request for an order must be made by motion. The motion must be in writing unless
11 made during a hearing or trial, must state the relief requested, and must state the grounds for the relief
12 requested. Except for the following, a motion must be made in accordance with this rule.

13 (b)(1) A motion, other than a motion described in paragraphs (b)(2), (b)(3) or (b)(4), made in
14 proceedings before a court commissioner must follow Rule 101.

15 (b)(2) A request under Rule 26 for extraordinary discovery must follow Rule 37(a).

16 (b)(3) A request under Rule 37 for a protective order or for an order compelling disclosure or
17 discovery—but not a motion for sanctions—must follow Rule 37(a).

18 (b)(4) A request under Rule 45 to quash a subpoena must follow Rule 37(a).

19 (b)(5) A motion for summary judgment must follow the procedures of this rule as supplemented
20 by the requirements of Rule 56.

21 **(c) Name and content of motion.**

22 (c)(1) The rules governing captions and other matters of form in pleadings apply to motions and
23 other papers. The moving party must title the motion substantially as: “Motion [short phrase
24 describing the relief requested].” The motion must include the supporting memorandum. The motion
25 must include under appropriate headings and in the following order:

26 (c)(1)(A) a concise statement of the relief requested and the grounds for the relief requested;
27 and

28 (c)(1)(B) one or more sections that include a concise statement of the relevant facts claimed
29 by the moving party and argument citing authority for the relief requested.

30 (c)(2) If the moving party cites documents, interrogatory answers, deposition testimony, or other
31 discovery materials, relevant portions of those materials must be attached to or submitted with the
32 motion.

33 (c)(3) If the motion is for relief authorized by Rule 12(b) or 12(c), Rule 56 or Rule 65A, the motion
34 may not exceed 25 pages, not counting the attachments, unless a longer motion is permitted by the
35 court. Other motions may not exceed 15 pages, not counting the attachments, unless a longer motion
36 is permitted by the court.

37 **(d) Name and content of memorandum opposing the motion.**

38 (d)(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the
39 motion is filed. The nonmoving party must title the memorandum substantially as: “Memorandum
40 opposing motion [short phrase describing the relief requested].” The memorandum must include
41 under appropriate headings and in the following order:

42 (d)(1)(A) a concise statement of the party’s preferred disposition of the motion and the
43 grounds supporting that disposition;

44 (d)(1)(B) one or more sections that include a concise statement of the relevant facts claimed
45 by the nonmoving party and argument citing authority for that disposition; and

46 (d)(1)(C) objections to evidence in the motion, citing authority for the objection.

47 (d)(2) If the non-moving party cites documents, interrogatory answers, deposition testimony, or
48 other discovery materials, relevant portions of those materials must be attached to or submitted with
49 the memorandum.

50 (d)(3) If the motion is for relief authorized by Rule 12(b) or 12(c), Rule 56 or Rule 65A, the
51 memorandum opposing the motion may not exceed 25 pages, not counting the attachments, unless a
52 longer memorandum is permitted by the court. Other opposing memoranda may not exceed 15
53 pages, not counting the attachments, unless a longer memorandum is permitted by the court.

54 **(e) Name and content of reply memorandum.**

55 (e)(1) Within 7 days after the memorandum opposing the motion is filed, the moving party may file
56 a reply memorandum, which must be limited to rebuttal of new matters raised in the memorandum
57 opposing the motion. The moving party must title the memorandum substantially as “Reply
58 memorandum supporting motion [short phrase describing the relief requested].” The memorandum
59 must include under appropriate headings and in the following order:

60 (e)(1)(A) a concise statement of the new matter raised in the memorandum opposing the
61 motion;

62 (e)(1)(B) one or more sections that include a concise statement of the relevant facts claimed
63 by the moving party not previously set forth that respond to the opposing party’s statement of
64 facts and argument citing authority rebutting the new matter;

65 (e)(1)(C) objections to evidence in the memorandum opposing the motion, citing authority for
66 the objection; and

67 (e)(1)(D) response to objections made in the memorandum opposing the motion, citing
68 authority for the response.

69 (e)(2) If the moving party cites documents, interrogatory answers, deposition testimony, or other
70 discovery materials, relevant portions of those materials must be attached to or submitted with the
71 memorandum.

72 (e)(3) If the motion is for relief authorized by Rule 12(b) or 12(c), Rule 56 or Rule 65A, the reply
73 memorandum may not exceed 15 pages, not counting the attachments, unless a longer

74 memorandum is permitted by the court. Other reply memoranda may not exceed 10 pages, not
75 counting the attachments, unless a longer memorandum is permitted by the court.

76 **(f) Objection to evidence in the reply memorandum; response.** If the reply memorandum includes
77 an objection to evidence, the nonmoving party may file a response to the objection no later than 7 days
78 after the reply memorandum is filed. If the reply memorandum includes evidence not previously set forth,
79 the nonmoving party may file an objection to the evidence no later than 7 days after the reply
80 memorandum is filed, and the moving party may file a response to the objection no later than 7 days after
81 the objection is filed. The objection or response may not be more than 3 pages.

82 **(g) Request to submit for decision.** When briefing is complete or the time for briefing has expired,
83 either party may file a "Request to Submit for Decision, but, if no party files a request, the motion will not
84 be submitted for decision. The request to submit for decision must state whether a hearing has been
85 requested and the dates on which the following documents were filed:

86 (g)(1) the motion;

87 (g)(2) the memorandum opposing the motion, if any;

88 (g)(3) the reply memorandum, if any; and

89 (g)(4) the response to objections in the reply memorandum, if any.

90 **(h) Hearings.** The court may hold a hearing on any motion. A party may request a hearing in the
91 motion, in a memorandum or in the request to submit for decision. A request for hearing must be
92 separately identified in the caption of the document containing the request. The court must grant a
93 request for a hearing on a motion under Rule 56 or a motion that would dispose of the action or any claim
94 or defense in the action unless the court finds that the motion or opposition to the motion is frivolous or
95 the issue has been authoritatively decided.

96 **(i) Notice of supplemental authority.** A party may file notice of citation to significant authority that
97 comes to the party's attention after the party's motion or memorandum has been filed or after oral
98 argument but before decision. The notice may not exceed 2 pages. The notice must state the citation to
99 the authority, the page of the motion or memorandum or the point orally argued to which the authority
100 applies, and the reason the authority is relevant. Any other party may promptly file a response, but the
101 court may act on the motion without waiting for a response. The response may not exceed 2 pages.

102 **(j) Orders.**

103 **(j)(1) Decision complete when signed; entered when recorded.** However designated, the
104 court's decision on a motion is complete when signed by the judge. The decision is entered when
105 recorded in the docket.

106 **(j)(2) Preparing and serving a proposed order.** Within 14 days of being directed by the court to
107 prepare a proposed order confirming the court's decision, a party must serve the proposed order on
108 the other parties for review and approval as to form. If the party directed to prepare a proposed order
109 fails to timely serve the order, any other party may prepare a proposed order confirming the court's
110 decision and serve the proposed order on the other parties for review and approval as to form.

111 **(j)(3) Effect of approval as to form.** A party's approval as to form of a proposed order certifies
112 that the proposed order accurately reflects the court's decision. Approval as to form does not waive
113 objections to the substance of the order.

114 **(j)(4) Objecting to a proposed order.** A party may object to the form of the proposed order by
115 filing an objection within 7 days after the order is served.

116 **(j)(5) Filing proposed order.** The party preparing a proposed order must file it:

117 (j)(5)(A) after all other parties have approved the form of the order (The party preparing the
118 proposed order must indicate the means by which approval was received: in person; by
119 telephone; by signature; by email; etc.);

120 (j)(5)(B) after the time to object to the form of the order has expired (The party preparing the
121 proposed order must also file a certificate of service of the proposed order.); or

122 (j)(5)(C) within 7 days after a party has objected to the form of the order (The party preparing
123 the proposed order may also file a response to the objection.).

124 **(j)(6) Proposed order before decision prohibited; exceptions.** A party may not file a proposed
125 order concurrently with a motion or a memorandum or a request to submit for decision, but a
126 proposed order must be filed with:

127 (j)(6)(A) a stipulated motion;

128 (j)(6)(B) a motion that can be acted on without waiting for a response;

129 (j)(6)(C) an ex parte motion;

130 (j)(6)(D) a statement of discovery issues under Rule 37(a); and

131 (j)(6)(E) the request to submit for decision a motion in which a memorandum opposing the
132 motion has not been filed.

133 **(j)(7) Orders entered without a response; ex parte orders.** An order entered on a motion
134 under paragraph (l) or (m) can be vacated or modified by the judge who made it with or without
135 notice.

136 **(j)(8) Order to pay money.** An order to pay money can be enforced in the same manner as if it
137 were a judgment.

138 **(k) Stipulated motions.** A party seeking relief that has been agreed to by the other parties may file a
139 stipulated motion which must:

140 (k)(1) be titled substantially as: "Stipulated motion [short phrase describing the relief requested];

141 (k)(2) include a concise statement of the relief requested and the grounds for the relief requested;

142 (k)(3) include a signed stipulation in or attached to the motion and;

143 (k)(4) be accompanied by a request to submit for decision and a proposed order that has been
144 approved by the other parties.

145 **(l) Motions that may be acted on without waiting for a response.**

146 (l)(1) The court may act on the following motions without waiting for a response:

147 (l)(1)(A) motion to permit an over-length motion or memorandum;

148 (l)(1)(B) motion for an extension of time if filed before the expiration of time;

149 (l)(1)(C) motion to appear pro hac vice; and

150 (l)(1)(E) other similar motions.

151 (l)(2) A motion that can be acted on without waiting for a response must:

152 (l)(2)(A) be titled as a regular motion;

153 (l)(2)(B) include a concise statement of the relief requested and the grounds for the relief
154 requested;

155 (l)(2)(C) cite the statute or rule authorizing the motion to be acted on without waiting for a
156 response; and

157 (l)(2)(D) be accompanied by a request to submit for decision and a proposed order.

158 **(m) Ex parte motions.** If a statute or rule permits a motion to be filed without serving the motion on
159 the other parties, the party seeking relief may file an ex parte motion which must:

160 (m)(1) be titled substantially as: "Ex parte motion [short phrase describing the relief requested];

161 (m)(2) include a concise statement of the relief requested and the grounds for the relief
162 requested;

163 (m)(3) cite the statute or rule authorizing the ex parte motion;

164 (m)(4) be accompanied by a request to submit for decision and a proposed order.

165 **(n) Motion in opposing memorandum or reply memorandum prohibited.** A party may not make a
166 motion in a memorandum opposing a motion or in a reply memorandum. A party who objects to evidence
167 in another party's motion or memorandum may not move to strike that evidence. Instead, the party must
168 include in the subsequent memorandum an objection to the evidence.

169 **(o) Overlength motion or memorandum.** The court may permit a party to file an overlength motion
170 or memorandum upon a showing of good cause. An overlength motion or memorandum must include a
171 table of contents and a table of authorities with page references.

172 **(p) Limited statement of facts and authority.** No statement of facts and legal authorities beyond
173 the concise statement of the relief requested and the grounds for the relief requested required in
174 paragraph (c) is required for the following motions:

175 (p)(1) motion to allow an over-length motion or memorandum;

176 (p)(2) motion to extend the time to perform an act, if the motion is filed before the time to perform
177 the act has expired;

178 (p)(3) motion to continue a hearing;

179 (p)(4) motion to appoint a guardian ad litem;

180 (p)(5) motion to substitute parties;

181 (p)(6) motion to refer the action to or withdraw it from alternative dispute resolution under Rule 4-
182 510.05;

183 (p)(7) motion for a conference under Rule 16; and

184 (p)(8) motion to approve a stipulation of the parties.

185 **Advisory Committee Notes [Add to existing notes]**

186 The 2015 changes to Rule 7 repeal and reenact the rule. Many of the provisions from the former Rule
 187 7 are preserved in the 2015 version, but there are many changes as well. The committee's intent is to
 188 bring more regularity to motion practice. Some of these features are found in Rule 7-1 of the U.S. District
 189 Court for the District of Utah:

- 190 • integrate the memorandum supporting a motion with the motion itself;
- 191 • describe more uniform motion titles;
- 192 • describe more uniform content in the memoranda;
- 193 • regulate the process for citing supplemental authority;
- 194 • prohibit proposed orders before a decision, except for specified motions;
- 195 • move the special requirements for a motion for summary judgment to Rule 56;
- 196 • allow a limited statement of facts for specified motions;
- 197 • require an objection to evidence, rather than a motion to strike evidence; and
- 198 • require a counter-motion rather than a motion in the opposing memorandum.

199 The 2015 amendments in this rule, as well as in Rule 54 and Rule 58A, respond to the Supreme
 200 Court's directive to the committee in *Central Utah Water Conservancy District v. King*, 2013 UT 13 ¶27. In
 201 that case the Supreme Court directed the committee to address the problem of undue delay when the
 202 parties fail to comply with former Rule 7(f)(2). A major objective of the 2015 amendments is to continue
 203 the policy of clear expectations of the parties established in:

- 204 • *Butler v. Corporation of The President of The Church of Jesus Christ of Latter-Day Saints*,
 205 2014 UT 41
- 206 • *Central Utah Water Conservancy District v. King*, 2013 UT 13;
- 207 • *Giusti v. Sterling Wentworth Corp.*, 2009 UT 2;
- 208 • *Houghton v. Dep't of Health*, 2008 UT 86; and
- 209 • *Code v. Dep't of Health*, 2007 UT 43.

210 However, the 2015 amendments do so in a manner simpler than the "magic words" required under the
 211 former Rule 7(f)(2).

212 In these cases, the Supreme Court established a policy favoring a clear indication of whether a
 213 further document would be required from the parties after a judge's decision. The parties should not be
 214 required to guess what, if anything, should come next.

215 There were three ways to meet the test: a proposed order was submitted with the supporting or
 216 opposing memorandum; an order was prepared at the direction of the judge; the decision included an
 217 express indication that a further order was not required. The 2015 amendments remove a proposed order
 218 from the process in most circumstances. The trend under the former rule was to include in every order an
 219 indication that nothing further was required, sometimes even when the order expressly directed a party to
 220 prepare a further order. In other cases orders were prepared in some manner other than as described in

221 the rule, yet the order did not expressly state that nothing further was required. The order technically was
222 not complete, but everyone proceeded as if it were.

223 The 2015 amendments continue the policy of a bright-line test for a completed decision but do not
224 rely on conditions that might or might not be met. The one condition that can be counted on is the judge's
225 signature. Under the former rule, a completed decision was imposed by operation of law when the order
226 was prepared in one of the recognized ways. The 2015 rule imposes a completed decision by operation
227 of law when the document memorializing the decision is signed. Under the former rule, the judge's silence
228 meant that something further was required, unless the order was prepared in one of the ways described
229 in Rule 7. The presumption in the 2015 amendments is the opposite: silence means that nothing further is
230 required from the parties. Judges can expressly require an order confirming a decision if one is needed in
231 a particular case.

232 The committee recognizes the many different forms a judge's decision might take, and discussed
233 defining "order," but decided against the attempt. There are too many variations. If written, the document
234 might be titled "order," "ruling," "opinion," "decision," "memorandum decision," etc. The decision might not
235 be written; an oral directive is an order. A clerk's minute entry of an oral decision is, when signed by the
236 judge, treated the same as a written order. The committee decided instead to modify a phrase of long
237 standing from Rule 54(b)—"a decision, however designated"—in this rule and in Rule 58A. In this rule,
238 however a judge's decision may be designated, that decision is complete when the judge signs the
239 document memorializing the decision. Whether there is a right to appeal is determined by whether the
240 decision—or subsequent order confirming the decision—is a judgment. That analysis is governed by Rule
241 54. When the judgment is entered is governed by Rule 58A. If the order is not a judgment, the time in
242 which to petition for permission to appeal under Rule of Appellate Procedure 5 is calculated from the date
243 on which an order confirming an earlier decision is entered, but only if the judge directs that a confirming
244 order be prepared. If the judge does not direct that a confirming order be prepared, the time is calculated
245 from the date on which the decision, however designated, is entered.

246