

1 **Rule ~~10-1-306~~ 4-502. Expedited procedures for resolving discovery issues.**

2 **Intent:**

3 To further the just, speedy, and inexpensive determination of civil actions. (~~Utah R.~~
4 ~~Civ. P. 1~~).

5 **Applicability:**

6 This rule shall apply to ~~the Third District Court. This rule is effective November 17,~~
7 2011 motions and stipulations for extraordinary discovery, motions to compel discovery
8 and motions for a discovery protective order in the district court.

9 **Statement of the Rule:**

10 (1) Status and scheduling matters are handled differently by each judge. Contact
11 one of the judicial assistants for the assigned judge for specific questions. In all cases,
12 however, counsel shall:

13 (1)(A) Promptly notify the court of any stipulations for extraordinary discovery
14 entered pursuant to Rule 26(c)(6)(A), including notice to the court of any stipulations
15 that extend the presumptive deadlines set forth in Rule 26(c)(5). Stipulations shall be
16 prepared on or substantially comply with the form accompanying this rule; and

17 (1)(B) Promptly notify the court of any settlements or stipulations in the case,
18 particularly where such settlements or stipulations may affect a pending motion or trial
19 date.

20 (2) The parties shall do the following before filing with the court any discovery
21 motion, including a Motion for Extraordinary Discovery (Utah R. Civ. P. 26(c)(6)(B)),
22 Motion to Compel, or Motion for Protective Order (Utah R. Civ. P. 37):

23 (2)(A) Meet and confer regarding the issues, in person or by telephone, and attempt
24 in good faith to resolve or narrow the issues without court involvement.

25 (2)(B) File and serve on all parties a "Statement of Discovery Issues", in a form
26 consistent with the requirements of Rule 10. The statement shall not exceed four pages,
27 shall not include exhibits, and shall include a certification stating that the parties have
28 met and conferred regarding the issues and attempted in good faith to resolve or narrow
29 the issues without court involvement. The statement should contain at least the
30 following:

31 (2)(B)(i) the precise relief sought;

32 (2)(B)(ii) the basis or reason for the relief sought;

33 (2)(B)(iii) a statement regarding proportionality (Utah R. Civ. P. 26(b)(2)); and

34 (2)(B)(iv) a statement in compliance with Rule 26(c)(6), if applicable.

35 The party shall also file a separate proposed form of Order consistent with the relief
36 sought.

37 (2)(C) Within five days following service of the “Statement of Discovery Issues”, any
38 party objecting to the relief sought may file and serve a “Statement in Opposition” in a
39 form consistent with the requirements of Rule 10. The opposition shall not exceed four
40 pages and shall not include exhibits. The opposition should briefly address pertinent
41 issues raised in the statement. The party shall also file a separate proposed form of
42 Order consistent with the relief sought. The parties’ written submissions will be docketed
43 and placed in the court file.

44 (2)(D) Upon filing the opposition, or expiration of the time for doing so, either party
45 may, and the party seeking relief shall, file with the court a Request to Submit for
46 Decision. (Utah R. Civ. P. 7(d)).

47 (2)(E) The court will promptly set a telephone conference to discuss the matter, and
48 will advise the parties by email or telephone of the date and time for the conference.
49 The court reserves the right to decide the issue(s) without a telephone conference if it
50 determines that a conference is unnecessary, and in its discretion, may require the
51 appearance of counsel and/or the parties in lieu of a telephone conference.

52 (2)(F) The court will resolve most if not all discovery issues during or in advance of
53 the phone conference. The court anticipates that no discovery motions will be
54 necessary, but if appropriate, the court will use the telephone conference to set a
55 briefing schedule for a motion addressing all unresolved issues together with a hearing
56 date, if needed. In most circumstances, the court anticipates adopting one or the other
57 of the proposed Orders.

58 (3) The parties are reminded that stipulations for extraordinary discovery pursuant to
59 Rule 26(c)(6)(A) are appropriate only “after reaching the limits of standard discovery
60 imposed by [the] rules...” and only if that discovery is proportional.

61 (4) Upon the filing of a responsive pleading, all cases subject to Rule 4-510.05 shall
62 be referred to the ADR program, unless the parties have participated in another ADR
63 process, such as arbitration, collaborative law, early neutral evaluation or a settlement
64 conference, or unless excused by the court. At the close of the presumptive case
65 deadline, the parties shall file with the court a certificate confirming that good faith
66 mediation (or other ADR process) has been completed or excused. (Utah R. Civ. P.
67 16(b)).

68 (5) If the discovery deadline passes and a Certificate of Readiness for Trial has not
69 been filed, the court may at its discretion issue an order to show cause why the case
70 should not be dismissed. At that hearing, the court will dismiss the case without
71 prejudice, order deadlines for specific actions to be taken, or set a trial date. If actions
72 are not completed as ordered, the matter may be dismissed without further notice. If
73 parties wish to stay proceedings, they should file an appropriate motion during the
74 pendency of the case deadlines.

75 (6) Proposed orders should be prepared and circulated in accordance with the
76 requirements of Rule 7(f)(2) of the Utah Rules of Civil Procedure. Additionally, the order
77 should be electronically filed with the clerk's office, or a copy of the order in native
78 electronic form (e.g., Word or WordPerfect) should be emailed to the court's judicial
79 assistant including orders provided pursuant to paragraph 2(b) and (c) above.

- 80 • Stipulation for Extraordinary Discovery -  [PDF](#) |  [Word](#)

81