

# Agenda

Advisory Committee on Rules of Civil Procedure

November 17, 2021

4:00 to 6:00 p.m.

[Via Webex](#)

Welcome and approval of minutes	Tab 1	Lauren DiFrancesco
Supreme Court Conf. Update: <ul style="list-style-type: none"><li>• Membership - Reappointment of Tim Pack, Judge Stucki, Susan Vogel, Leslie Slaugh; Appointment of Tonya Wright; Seat to fill with Michael Petrogeorge's vacancy</li><li>• Classification of Records in the URCP</li></ul>	Tab 2	Lauren DiFrancesco
Rule 5 and Self Help Forms		Stacy Haacke
Legal community requests <ul style="list-style-type: none"><li>• Rule 4</li></ul>	Tab 3	Stacy Haacke
<i>Consent agenda</i> --		
<b>Verify Pipeline items:</b> <ul style="list-style-type: none"><li>• Rule 45 and objections (Jen Tomchak)</li><li>• Trial date setting (family law-Judge Holmberg, Jim Hunnicutt)</li><li>• Legal Terminology (Susan Vogel)</li><li>• Court Notices (Susan Vogel and Loni Page)</li></ul>		Lauren DiFrancesco, Chair

**2021 Meeting Schedule:** 4<sup>th</sup> Wednesday at 4pm unless otherwise scheduled

**Committee Webpage:** <http://www.utcourts.gov/committees/civproc/>

# Tab 1

**UTAH SUPREME COURT ADVISORY COMMITTEE  
ON RULES OF CIVIL PROCEDURE**

**Summary Minutes – October 27, 2021**

**DUE TO THE COVID-19 PANDEMIC AND PUBLIC HEALTH EMERGENCY  
THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX**

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<b>Committee members</b>	<b>Present</b>	<b>Excused</b>	<b>Guests/Staff Present</b>
Robert Adler		<b>X</b>	Keisa Williams, Staff
Rod N. Andreason	<b>X</b>		Crystal Powell, Recording Secretary
Judge James T. Blanch		<b>X</b>	Paul Barron, Guest
Lauren DiFrancesco, Chair	<b>X</b>		Keri Sargent, Guest
Judge Kent Holmberg	<b>X</b>		Christopher Williams, Guest
James Hunnicutt	<b>X</b>		Nick Stiles, Guest
Judge Linda Jones	<b>X</b>		Jim Peters, Guest
Trevor Lee	<b>X</b>		Stacy Haacke, Staff
Ash McMurray	<b>X</b>		
Judge Amber M. Mettler	<b>X</b>		
Kim Neville	<b>X</b>		
Timothy Pack		<b>X</b>	
Loni Page	<b>X</b>		
Bryan Pattison	<b>X</b>		
James Peterson		<b>X</b>	
Michael Petrogeorge		<b>X</b>	
Judge Laura Scott	<b>X</b>		
Leslie W. Slaugh		<b>X</b>	
Paul Stancil		<b>X</b>	
Judge Clay Stucki		<b>X</b>	
Judge Andrew H. Stone	<b>X</b>		
Justin T. Toth	<b>X</b>		
Susan Vogel	<b>X</b>		

**(1) MEMBER INTRODUCTIONS**

Ms. Kesia Williams introduced new committee staff Ms. Stacy Haacke. Ms. Haacke was welcomed by the Committee. Ms. Williams will no longer attend the meeting; but noted she would be available if needed.

**(2) APPROVAL OF MINUTES**

Ms. Lauren DiFrancesco asked for approval of the minutes subject to minor amendments noted by the minutes subcommittee. Mr. Jim Hunnicutt moved to adopt the minutes as amended; Bryan Pattison seconded. The minutes were approved unanimously.

**(3) SUPREME COURT CONFERENCE UPDATE**

Ms. DiFrancesco reported that she, Ms. Williams, and Mr. Rod Andreason met with the supreme court and received final approval on rules 24 and 62, which will be published November 1, 2021. Changes to Rules 5 and 76 were made and will be sent back out for public comment and further addressed by the Committee.

**(4) PREFERRED TERMINOLOGY FOR CERTAIN COURT/LEGAL TERMS**

Ms. Susan Vogel presented on suggestions for preferred terminology for certain court/legal terms. Ms. Vogel noted that she was presenting her suggestions to get the conversation started. She noted that the nationwide trend is to make legal vocabulary easier to understand for all. Ms. Vogel expressed that there are many confusing terms especially pertaining to small claims and for self-represented persons where 97% of debt cases have a self-represented party. She gave a few examples from the table presented to the Committee such as “estate” being used to refer to small items or a traverse of debt.

Ms. DiFrancesco questioned if the proposal to change the terms would be for words in the rules and Susan clarified that it would be on a step-by-step basis though she would be happy to take a look at the usage of confusing terms in the rules. Ms. DiFrancesco questioned what the nationwide trends were and suggested creating a subcommittee to take a deeper look into the project.

Ms. DiFrancesco reported that Mr. Leslie Slaugh and Judge Blanch had emailed their comments before the Committee meeting noting they were not in favor of a broad change to court and legal terminology as it will likely lead to even more confusion. Mr. Hunnicutt cautioned that many of the terms are already in the Code and that the scope of work of this Committee was limited to only rule changes. He therefore wondered whether this Committee is the right place to start some of these efforts; but noted that as it relates to the Rules, it would be good to consolidate the various words that are used for filing papers with the court.

Judge Stone suggested that the preferred terminology list might be best placed as a glossary on a help page for understanding the court. He noted that the law is technical and certain words are defined in statute and case law and the effort might be misguided as it could lead to further confusion. Mr. Andreason noted that he is open to the prospect of updating a lot of terms that are outdated; as might have been done in other jurisdictions. Mr. Barron suggested that Ms. Vogel reach out to the IT department of the court that is working on the MyCase application to make definitions easy and interactive for persons using that system. Ms. Vogel volunteered to chair a subcommittee to lead the project. Mr. Trevor Lee asked to join the subcommittee. The Committee volunteered Mr. Slauch. Mr. Ash McMurray also volunteered. The sub-committee will report their findings and suggestions in a month or two.

## **(5) NOTICES OF REMOTE HEARINGS**

Ms. Vogel explained how difficult it is for the court to send out notices for remote hearings. She noted that it would be very difficult to have a rule to address the problem and so would rather have a wish list of solutions to mitigate the difficulties people are having. Such issues include, for example: (1) remote hearing that happen after 5:00 p.m. have little to no technical support; (2) the notice not providing the information on the web-link; (3) there is no way to let the court know that an individual is trying to connect if there is a technical difficulty; (4) notices tend to have the court address and location but doesn't make it clear that the hearing will be remote. Ms. Vogel also expressed that the feedback to her is that "contacting the court" is a big blackhole. She also expressed that having a warrant out for non-appearance when the individual couldn't connect to the weblink is very harsh. Ms. Vogel suggested that the notice should have specific information about the hearing, how to connect or be present, as well as the number from which the court will contact the party if that is how the hearing will proceed.

Ms. DiFrancesco agreed that it is a problem and asked how best to mitigate the issue in terms of if it required a rule. Ms. Williams noted that one good place to start would be consulting the Clerks of Court meeting for feedback on the rationale behind procedure across the state. Ms. Loni Page expressed that she would raise the issue at that meeting. Ms. Page noted that sometimes the notices are lengthy and therefore can be overwhelming leading to individuals missing instructions. Ms. Page explained that some of the notices will refer the individual to the court's website which mostly has the links for hearings; and that while this is not an ideal solution as many instances require private links, it is a solution that is working.

Mr. Hunnicutt noted that some commissioners put the webex link on the notices, he believes that is the best procedure as it relieves all parties from scrambling to find it and the clerks from doing the extra work to send it out.

## **(6) RULE 7**

Ms. DiFrancesco reported that based on a request received through Mr. Spencer Young, Green-filing is asking for a proposed order on motions to classify and the rules do not expressly presuppose that a proposed order would go along with that type of motion. Mr. Lee noted that he filed a motion to classify recently and when he went to file the request to submit, that is when he was prompted to file a proposed motion but that is not listed in the rules.

Judge Stone noted that his understanding is that in practice, the filing of the motion results in classifying the document at least until the motion can be heard. Ms. Page answered that that is the best practice for clerks, but clerks must physically do it as it is not automatic. Ms. Di Francesco suggested it should be automatic as some cases or issues in cases are highly sensitive. Mr. Paul Barron noted that everything is classified as private upon the motion being filed and then the specific classification request is finalized after the judge signs the proposed order or rules on the request. Judge Stone also noted that he is hesitant to have the motion or case be classified automatically because of the possibility for abuse. He noted that in other states heavily redacted documents are filed as a best practice until the judge issues the order.

Ms. DiFrancesco wondered if there needed to be separate rule for document filing classifications. It was noted that the Rules of Judicial Administration speaks to document classifications and perhaps that rule needed to be brought over into the Rules of Civil Procedure. Ms. DiFrancesco proposed that another subcommittee be created to address this issue. Judge Stone as lead, along with Mr. Justin Toth, Ms. Vogel, Mr. Hunnicutt, and Ms. Powell will work on the subcommittee. Judge Stone asked that the committee get feedback from the supreme court to see if replacing the rule of judicial administration with a civil rule is something that they support. Ms. Williams noted that replacing the judicial administration rule would also need to go through the Judicial Council policy and planning committee. Ms. Williams noted that she and Ms. Haacke would draft something very quickly to meet the council agenda deadline.

## **(7) RULE 37**

Ms. DiFrancesco noted that the second issue raised by Mr. Young was the potential of attorneys' fees eclipsing the value of forcing the other side to pay expert fees and proposed that mandatory attorneys be added into Rule 37 to address this issue. Ms. DiFrancesco noted that while not expressly referenced in rule 37, it would fall under 37 (a) (1) as a discovery issue.

Committee members questioned how frequent the issue arises as they could not recall having seen a dispute over payment for experts. Ms. DiFrancesco noted that it is very rare but could only think of it in the context of experts asking for a deposit before a deposition; and ultimately suggested to not adopt any changes or act on this issue at this time. The Committee agreed.

## **(8) RULE 41**

Judge Linda Jones and Judge Amber Mettler lead the discussion on whether rule 41 requires the dismissal of an action in order to dismiss one defendant from the action. She noted that the discrepancy arises where Rule 41 could be read as hindering the dismissal of a single defendant without dismissing the entire action or filing an amended complaint. Ms. Di Francesco questioned why the need to go to rule 41 or rule 54 and not dismiss the defendant by stipulated motion under rule 7. She suggested that perhaps it might be prudent to wait until the issue is presented in a case before the supreme court. Judge Jones wondered if such a case would ever go before the supreme court leaving the lower courts without a proper procedural mechanism.

Ms. Vogel commented that a defendant in an eviction case may have a negative effect on their credit or may have a garnishment on their salary even though they did not have a judgment against them because of a default against one of the other defendants and do not have a court order to show that they are out of the case. Ms. DiFrancesco noted that that might be a separate issue. Judge Jones noted that she is not able to sign a judgment if one party is not able to be served and would usually dismiss that person but is now wondering if rule 41 is a barrier to that.

Ms. DiFrancesco expressed that amending a complaint just to dismiss a party seems to be very uneconomical. Ms. Vogel noted that the committee should consult with Utah legal Service or People's Legal Aid for input. Judge Stone added that a plaintiff should be able to carve out their complaint how they want and wondered why a motion process as opposed to a notice. Judge Jones noted that the remaining defendant might raise a right for the entire action to be dismissed. Judge Stone noted that it's not burdensome to do it by motion; but parties tend to use rule 7. It was noted too, that rule 41 is routinely ignored.

After a full discussion, the Committee agreed to amend Rule 41 and simply modify the language. Mr. Andreason suggested changing rule 41 (a) (1) (A) to insert "... an action or any party or portion thereof." The Committee also agreed to amend Rule 41(a)(1)(A)(i) to "any" party instead of "the party." Judge Jones suggested a change in 41 (a) (2) from "action" to "an action or any party or part thereof."

Judge Stone motioned to approve the proposed changed. Mr. Andreason seconded. The amendment unanimously passed.

## **(9) ADJOURNMENT**

The chair thanked everyone for their time and efforts and requested that any new items be emailed to her or Ms. Haacke. The meeting adjourned at 5:36 p.m.

# Tab 2



**Advisory Committee on the Utah Rules of Civil Procedure**

<b>Name</b>	<b>Original Appointment</b>	<b>First Term Expires</b>	<b>Second Term Expires</b>	<b>Type of Practice</b>	<b>Location</b>
Robert Adler	8/12/2020	8/12/2022	Retiring	U of U Law	SLC
Rod N. Andreason	7/1/2014	7/1/2018	7/1/2022	Large Firm	SLC
Lauren DiFrancesco	9/1/2017	9/1/2021	9/1/2023	Large Firm	SLC
Judge Kent Holmberg	7/1/2015	7/1/2019	7/1/2023	District Court Judge	SLC
Jim Hunnicutt	7/1/2015	7/1/2019	7/1/2023	Small Firm (domestic)	SLC
Trevor Lee	7/1/2018	7/1/2022	7/1/2025	Medium Firm	SLC
Brooke McKnight	7/1/2019	7/1/2023	7/1/2026	Clerk of Court	Farmington
Ash McMurray	7/1/2020	7/2/2024	7/1/2027	Government	SLC
Judge Amber Mettler	7/1/2014	7/1/2018	7/1/2022	District Court Judge	SLC
Kim Neville	7/1/2021	7/1/2024	7/1/2027	Large Firm	SLC
Tim Pack	9/1/2017	9/1/2021	9/1/2025	Large Firm	SLC
Bryan Pattison	7/1/2018	7/1/2022	7/1/2025	Large Firm	St. George
Michael Petrogeorge	9/17/2018	7/25/2021	Resigned	Large Firm	SLC
Judge Laura Scott	2/1/2017	7/1/2019	7/1/2023	District Court Judge	SLC
Prof. Paul Stancil	7/1/2014	7/1/2018	7/1/2022	BYU Law	Provo
Judge Andrew Stone	7/1/2016	7/1/2020	7/1/2024	District Court Judge	SLC
Judge Clay Stucki	9/1/2017	9/1/2021	9/1/2025	Justice Court Judge	Ogden
Justin Toth	2/1/2017	7/1/2020	7/1/2024	Large Firm	SLC
Susan Vogel	9/1/2017	9/1/2021	9/1/2025	Utah State Courts	SLC
Tonya Wright	11/4/2021	11/4/2021	11/4/2025	LPP	SLC
<b>Emeritus</b>					
Leslie Slaugh	7/1/1997	9/1/2021	9/1/2025	Small Firm	Provo
Judge James Blanch	7/1/2002	7/1/2018	7/1/2022	District Court Judge	SLC
<b>Staff</b>					
Stacy Haacke, Staff	10/27/2021	Staff		AOC	SLC
Crystal Powell	9/21/2021	Rec. Sec.			

# Tab 3

TO: Ron Gordon, State Court Administrator, Administrative Office of the Courts, Utah Judicial Council

TO: Michael Drechsel, Assistant State Court Administrator, Administrative Office of the Courts, Utah Judicial Council

TO: Pamela Johns, Administrative Assistant, Utah Judicial Council

TO: Michelle Johnson, Administrative Assistant, Utah Judicial Council

FROM: Stephen Ehat (resident of Lindon, Utah)

DATE: 28 October 2021

RE: Judicial Council Form of Summons

Dear All,

I wonder (1) whether subdivision (c)(1)(E) of Rule 4 of the Utah Rules of Civil Procedure should be amended to conform to what appears to be provided both by Utah case law and by this Council's form of summons or (2) whether the Judicial Council form of summons (1015GE)—set forth

at [https://www.utcourts.gov/howto/filing/summons/docs/1015GE\\_Summons\\_In\\_State.pdf](https://www.utcourts.gov/howto/filing/summons/docs/1015GE_Summons_In_State.pdf) and at

[https://www.utcourts.gov/howto/filing/summons/docs/1015GE\\_Summons\\_In\\_State.pdf](https://www.utcourts.gov/howto/filing/summons/docs/1015GE_Summons_In_State.pdf)—should be modified to bring the language of its "Deadline!" paragraph into conformity with the language of subdivision (c)(1)(E) of Rule 4 of the Utah Rules of Civil Procedure. The rule and the form seem to disagree with one another. I believe the first of the above two options is the correct one to pursue (amend the rule).

- The rule states that a summons must "notify the defendant that in case of failure to answer in writing, **judgment** by default **will** be entered against the defendant" (emphasis here added). That does not seem to be consistent with what the Utah case law states (cited below) and does not seem to be consistent with what the Judicial Council form of summons

provides (which summons language seems to agree with Utah case law but seems to disagree with Rule 4(c)(1)(E)).

- The Judicial Council form of summons states that "If you do not file and serve your Answer by the deadline, the other party **can ask the court** for a default judgment." That seems to be consistent with the case law. Numerous Utah cases (*Gillman v. Gillman*, 2021 UT 33 [493 P.3d 655]; *Young v. Hagel*, 2020 UT App 100 [469 P.3d 1136]; *Somer v. Somer*, 2020 UT App 93 [467 P.3d 924], just for recent examples), which seem clearly to contemplate **application** for a default judgment (not automatic entry of default, which is what the rule seems to contemplate). The clerk's entry of a default certificate might well seem to be automatic upon failure to answer (though *Gillman v. Gillman*, at \*P18 indicates such clerk's default certificate comes after an opposing party requests it) but entry of a **judgment** by default does not seem to be automatic at all; a party must move for it).

The rule does not seem even to contemplate a certificate of default and its text seems to go beyond that to contemplate entry of a "judgment by default," with no mention of any need for the plaintiff(s) to apply for (and qualify for) entry of a default judgment and no mention of the "interlocutory step" (*Gillman v. Gillman*, at \*P18) of seeking entry by the clerk of a default certificate.

Stephen Kent Ehat

**Rule 4. Process.**

**(a) Signing of summons.** The summons must be signed and issued by the plaintiff or the plaintiff's attorney. Separate summonses may be signed and issued.

**(b) Time of service.** Unless the summons and complaint are accepted, a copy of the summons and complaint in an action commenced under Rule 3(a)(1) must be served no later than 120 days after the complaint is filed, unless the court orders a different period under Rule 6. If the summons and complaint are not timely served, the action against the unserved defendant may be dismissed without prejudice on motion of any party or on the court's own initiative.

**(c) Contents of summons.**

(1) The summons must:

(A) contain the name and address of the court, the names of the parties to the action, and the county in which it is brought;

(B) be directed to the defendant;

(C) state the name, address and telephone number of the plaintiff's attorney, if any, and otherwise the plaintiff's address and telephone number;

(D) state the time within which the defendant is required to answer the complaint in writing;

(E) notify the defendant that in case of failure to answer in writing, judgment by default will be entered against the defendant;

(F) state either that the complaint is on file with the court or that the complaint will be filed with the court within 10 days after service; and

(G) include the bilingual notice set forth in the form summons approved by the Utah Judicial Council.

(2) If the action is commenced under Rule 3(a)(2), the summons must also:

(A) state that the defendant need not answer if the complaint is not filed within 10 days after service; and

(B) state the telephone number of the clerk of the court where the defendant may call at least 14 days after service to determine if the complaint has been filed.

(3) If service is by publication, the summons must also briefly state the subject matter and the sum of money or other relief demanded, and that the complaint is on file with the court.

**(d) Methods of service.** The summons and complaint may be served in any state or judicial district of the United States. Unless service is accepted, service of the summons and complaint must be by one of the following methods:

**(1) Personal service.** The summons and complaint may be served by any person 18 years of age or older at the time of service and not a party to the action or a party's attorney. If the person to be served refuses to accept a copy of the summons and complaint, service is sufficient if the person serving them states the name of the process and offers to deliver them. Personal service must be made as follows:

(A) Upon any individual other than one covered by paragraphs (d)(1)(B), (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint to the individual personally, or by leaving them at the individual's dwelling house or usual place of abode with a person of suitable age and discretion who resides there, or by delivering them to an agent authorized by appointment or by law to receive process;

(B) Upon a minor under 14 years old by delivering a copy of the summons and complaint to a parent or guardian of the minor or, if none can be found within the state, then to any person having the care and control of the minor, or with whom the minor resides, or by whom the minor is employed;

(C) Upon an individual judicially declared to be incapacitated, of unsound mind, or incapable of conducting the individual's own affairs, by delivering a copy of

the summons and complaint to the individual and to the guardian or conservator of the individual if one has been appointed; the individual's legal representative if one has been appointed, and, in the absence of a guardian, conservator, or legal representative, to the person, if any, who has care, custody, or control of the individual;

(D) Upon an individual incarcerated or committed at a facility operated by the state or any of its political subdivisions, by delivering a copy of the summons and complaint to the person who has the care, custody, or control of the individual, or to that person's designee or to the guardian or conservator of the individual if one has been appointed. The person to whom the summons and complaint are delivered must promptly deliver them to the individual;

(E) Upon a corporation not otherwise provided for in this rule, a limited liability company, a partnership, or an unincorporated association subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or other agent authorized by appointment or law to receive process and by also mailing a copy of the summons and complaint to the defendant, if the agent is one authorized by statute to receive process and the statute so requires. If no officer or agent can be found within the state, and the defendant has, or advertises or holds itself out as having, a place of business within the state or elsewhere, or does business within this state or elsewhere, then upon the person in charge of the place of business;

(F) Upon an incorporated city or town, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the recorder;

(G) Upon a county, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the county clerk;

(H) Upon a school district or board of education, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the superintendent or administrator of the board;

(I) Upon an irrigation or drainage district, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the president or secretary of its board;

(J) Upon the state of Utah or its department or agency by delivering a copy of the summons and complaint to the attorney general and any other person or agency required by statute to be served; and

(K) Upon a public board, commission or body by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to any member of its governing board, or to its executive employee or secretary.

**(2) Service by mail or commercial courier service.**

(A) The summons and complaint may be served upon an individual other than one covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial courier service in any state or judicial district of the United States provided the defendant signs a document indicating receipt.

(B) The summons and complaint may be served upon an entity covered by paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service in any state or judicial district of the United States provided defendant's agent authorized by appointment or by law to receive service of process signs a document indicating receipt.

(C) Service by mail or commercial courier service shall be complete on the date the receipt is signed as provided by this rule.

**(3) Acceptance of service.**



105 **(A) Duty to avoid expenses.** All parties have a duty to avoid unnecessary  
106 expenses of serving the summons and complaint.

107 **(B) Acceptance of service by party.** Unless the person to be served is a  
108 minor under 14 years old or an individual judicially declared to be incapacitated,  
109 of unsound mind, or incapable of conducting the individual's own affairs, a  
110 party may accept service of a summons and complaint by signing a document  
111 that acknowledges receipt of the summons and complaint.

112 **(i) Content of proof of electronic acceptance.** If acceptance is obtained  
113 electronically, the proof of acceptance must demonstrate on its face that the  
114 electronic signature is attributable to the party accepting service and was  
115 voluntarily executed by the party. The proof of acceptance must demonstrate  
116 that the party received readable copies of the summons and complaint prior  
117 to signing the acceptance of service.

118 **(ii) Duty to avoid deception.** A request to accept service must not be  
119 deceptive, including stating or implying that the request to accept service  
120 originates with a public servant, peace officer, court, or official government  
121 agency. A violation of this paragraph may nullify the acceptance of service  
122 and could subject the person to criminal penalties under applicable Utah law.

123 **(C) Acceptance of service by attorney for party.** An attorney may accept service  
124 of a summons and complaint on behalf of the attorney's client by signing a  
125 document that acknowledges receipt of the summons and complaint.

126 **(D) Effect of acceptance, proof of acceptance.** A person who accepts service of  
127 the summons and complaint retains all defenses and objections, except for  
128 adequacy of service. Service is effective on the date of the acceptance. Filing the  
129 acceptance of service with the court constitutes proof of service under Rule 4(e).

130 **(4) Service in a foreign country.** Service in a foreign country must be made as  
131 follows:

(A) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(B) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(i) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction;

(ii) as directed by the foreign authority in response to a letter of request issued by the court; or

(iii) unless prohibited by the law of the foreign country, by delivering a copy of the summons and complaint to the individual personally or by any form of mail requiring a signed receipt, addressed and dispatched by the clerk of the court to the party to be served; or

(C) by other means not prohibited by international agreement as may be directed by the court.

**(5) Other service.**

(A) If the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, if service upon all of the individual parties is impracticable under the circumstances, or if there is good cause to believe that the person to be served is avoiding service, the party seeking service may file a motion to allow service by some other means. An affidavit or declaration supporting the motion must set forth the efforts made to identify, locate, and serve the party, or the circumstances that make it impracticable to serve all of the individual parties.

(B) If the motion is granted, the court will order service of the complaint and summons by means reasonably calculated, under all the circumstances, to

159 apprise the named parties of the action. The court's order must specify the  
160 content of the process to be served and the event upon which service is complete.  
161 Unless service is by publication, a copy of the court's order must be served with  
162 the process specified by the court.

163 (C) If the summons is required to be published, the court, upon the request of the  
164 party applying for service by other means, must designate a newspaper of  
165 general circulation in the county in which publication is required.

166 **(e) Proof of service.**

167 (1) The person effecting service must file proof of service stating the date, place, and  
168 manner of service, including a copy of the summons. If service is made by a person  
169 other than by an attorney, sheriff, constable, United States Marshal, or by the  
170 sheriff's, constable's or marshal's deputy, the proof of service must be by affidavit or  
171 unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn  
172 Declarations Act.

173 (2) Proof of service in a foreign country must be made as prescribed in these rules  
174 for service within this state, or by the law of the foreign country, or by order of the  
175 court.

176 (3) When service is made pursuant to paragraph(d)(4)(C), proof of service must  
177 include a receipt signed by the addressee or other evidence of delivery to the  
178 addressee satisfactory to the court.

179 (4) Failure to file proof of service does not affect the validity of the service. The court  
180 may allow proof of service to be amended.

181  
182 Effective May 1, 2021  
183

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #:\_\_\_\_\_)  
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner  
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #:\_\_\_\_\_)

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

**Summons** (To be served in Utah)

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner (domestic cases)

The State of Utah to

\_\_\_\_\_ (party's name):

A lawsuit has been filed against you. You must respond in writing by the deadline for the court to consider your side. The written response is called an Answer.

Se ha presentado una demanda en su contra. Si desea que el juez considere su lado, deberá presentar una respuesta por escrito dentro del periodo de tiempo establecido. La respuesta por escrito es conocida como la Respuesta.

**Deadline!**

Your Answer must be filed with the court and served on the other party **within 21 days** of the date you were served with this Summons.

If you do not file and serve your Answer by the deadline, the other party can ask the court for a default judgment. A default judgment means the other party can get what they asked for, and you do not get the chance to tell your side of the story.

**Read the complaint/petition**

The Complaint or Petition has been filed with the court and explains what the other party is asking for in their lawsuit. Read it carefully.

**Answer the complaint/petition**

You must file your Answer in writing with the court **within 21 days** of the date you were served with this Summons. You can find an Answer form on the court's website: [utcourts.gov/ans](http://utcourts.gov/ans)



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**Serve the Answer on the other party**

You must email, mail or hand deliver a copy of your Answer to the other party (or their attorney or licensed paralegal practitioner, if they have one) at the address shown at the top left corner of the first page of this Summons.

**¡Fecha límite para contestar!**

Su Respuesta debe ser presentada en el tribunal y también con la debida entrega formal a la otra parte **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citatorio.

Si usted no presenta una respuesta ni hace la entrega formal dentro del plazo establecido, la otra parte podrá pedirle al juez que asiente un fallo por incumplimiento. Un fallo por incumplimiento significa que la otra parte recibe lo que pidió, y usted no tendrá la oportunidad de decir su versión de los hechos.

**Lea la demanda o petición**

La demanda o petición fue presentada en el tribunal y ésta explica lo que la otra parte pide. Léala cuidadosamente.

**Cómo responder a la demanda o petición**

Usted debe presentar su Respuesta por escrito en el tribunal **dentro de 21 días** a partir de la fecha en que usted recibió la entrega formal del Citatorio. Puede encontrar el formulario para la presentación de la Respuesta en la página del tribunal: [utcourts.gov/ans-span](http://utcourts.gov/ans-span)



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**Entrega formal de la respuesta a la otra parte**

Usted deberá enviar por correo electrónico, correo o entregar personalmente una copia de su Respuesta a la otra parte (o a su abogado o asistente legal, si tiene) a la dirección localizada en

### Finding help

The court's Finding Legal Help web page

([utcourts.gov/help](https://utcourts.gov/help))

provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.



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la esquina izquierda superior de la primera hoja del citatorio.

### Cómo encontrar ayuda legal

Para información sobre maneras de obtener ayuda legal, vea nuestra página de Internet Cómo

Encontrar Ayuda Legal.

([utcourts.gov/help-span](https://utcourts.gov/help-span))

Algunas maneras de obtener ayuda legal son por medio de una visita a un taller jurídico gratuito, o mediante el Centro de Ayuda. También hay ayuda legal a precios de descuento y consejo legal breve.



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قم بلمسح  
الضوئي للرمز  
لزيارة الصفحة

An Arabic version of this document is available on the court's website:

نسخة عربية من هذه الوثيقة على موقع المحكمة على ت وجد  
الإنترنت:

[utcourts.gov/arabic](https://utcourts.gov/arabic)

A Simplified Chinese version of this document is available on the court's website:

本文件的简体中文版可在法院网站上找到：

[utcourts.gov/chinese](https://utcourts.gov/chinese)



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A Vietnamese version of this document is available on the court's website:

Một bản tiếng Việt của tài liệu này có sẵn trên trang web của tòa:

[utcourts.gov/viet](https://utcourts.gov/viet)



Xin vui lòng quét mã QR (Trả lời nhanh) để viếng trang

### Plaintiff/Petitioner or Defendant/Respondent

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

Date

Signature ►

Printed Name

**Attorney or Licensed Paralegal Practitioner of record** (if applicable)

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_

Printed Name \_\_\_\_\_