



Utah Supreme Court
Advisory Committee on the Utah Rules of Civil Procedure
Meeting Agenda
Laruen DiFrancesco, Chair

Location: WebEx Meeting: [Link](#)

Date: March 27, 2024

Time: 4:00 – 6:00 p.m.

Welcome and approval of minutes	Tab 1	Lauren DiFrancesco
Update on New URCP Rule		Lauren DiFrancesco
Rule 74 - Attorney withdrawals and Notice to Appear or Appoint	Tab 2	Michael Stahler
Rule 5 - Service	Tab 3	Loni Page
Rule 4 - Conformity with UC §78B-8-302(7) for Process Servers (<i>Discussion</i>)	Tab 4	Lauren DiFrancesco
Rule 63A - HJR008 - Joint Resolution Amending Rules of Civil Procedure on Change of Judge as a Matter of Right	Tab 5	Lauren DiFrancesco

Reminder: Check style guide for conformity before rules are sent to the Supreme Court.

Upcoming Items:

- Rule 3(a)(2) - *April Meeting*
- Standard POs Subcommittee - *Additional members?*
- Rule 47 Attorney Voir Dire
- Third Party Financing
- Rule 76 Subcommittee
- Rule 62 Subcommittee
- Removal of gendered pronouns by Plain Language Subcommittee
- Rule 7A and 37 Motion for Sanctions Subcommittee
- Rule 101 Subcommittee
- Rule 60 Subcommittee

- Affidavit and Declarations Subcommittee
- Rule 74 Subcommittee
- Rule 5(a)(2) and (b)(3) Subcommittee

URCP Committee Website: [Link](#)

Meeting Schedule:

April 24

May 22

June 26

July 17

August 28

September 25

October 23

November 20

December 18

Tab 1

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

**Summary Minutes – March 22, 2023
In-Person and via Webex**

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

Committee members	Present	Excused	Guests/Staff Present
Rod N. Andreason, Vice-Chair	X		Stacy Haacke, Staff
Lauren DiFrancesco, Chair	X		Keri Sargent
Judge Kent Holmberg	X		Brent Salazar-Hall
James Hunnicutt	X		Nicole Salazar-Hall
Trevor Lee	X		Nick Stiles
Ash McMurray	X		Lacey Cherrington
Michael Stahler	X		Greg Constantino
Timothy Pack	X		Quinn Kofford
Loni Page	X		Tim Clark
Bryan Pattison		X	
Judge Laura Scott	X		
Judge Clay Stucki		X	
Judge Andrew H. Stone	X		
Justin T. Toth	X		
Susan Vogel	X		
Tonya Wright	X		
Judge Rita Cornish	X		
Commissioner Catherine Conklin	X		
Giovanna Spiess	X		
Jonas Anderson		X	
Heather Lester	X		
Jensie Anderson	X		
<i>Emeritus Seats Vacant</i>			

(1) INTRODUCTIONS

The meeting started at 4:00 p.m. after forming a quorum. Ms. Lauren DiFrancesco welcomed the Committee and guests. Ms. DiFrancesco also announced the new Committee members. All current and new members introduced themselves.

(2) APPROVAL OF MINUTES

Ms. DiFrancesco asked for approval of the February Minutes subject to amendments noted by the Minutes subcommittee. There were a few small changes and misspelled names that were amended. Mr. Andreason moved to adopt the Minutes as amended. Mr. Hunnicutt seconded. The Minutes were unanimously approved.

(3) RULE 53A. SPECIAL MASTERS FOR CHILD-RELATED ISSUES IN DOMESTIC RELATIONS ACTIONS.

Mr. Salazar-Hall explained the current status of this new rule, the comments and changes that have been made recently. The Supreme Court Justices had a few suggestions that did not match Rule 7(b) and the subcommittee was going to make the change but the language “domestic relations actions” appears throughout the rules and the only place where “domestic law matters” shows up is in the title. Will need to explain to the Justices that we respectfully disagree with this requested change. If the Justices direct the change be made, then it should be made throughout the rules.

In regards to quasi-judicial immunity, the case law indicate this applies to special masters. A rule of procedure is not the best place for this, rather it should be per statute or case law, so this language was removed.

As to an administrative rule on training, education and ethical requirements, there were initially two subcommittees created per the legislative audit and this specific requirement was tasked to the other subcommittee. Mr. Salazar-Hall will follow up on this other subcommittee and whether an administrative rule for the Judicial Council is being crafted.

Judge Scott moved to send the rule to the Supreme Court and out for public comment. Mr. Hunnicutt seconded. All approve.

(4) SUBCOMMITTEES DISCUSSION.

Ms. DiFrancesco has sent emails to Committee members to either follow up on the current status of subcommittee work, or create new subcommittees. Ms. Lester and Ms. Spiess would like

to be added to the Rule 3 subcommittee. Judge Cornish is taking over the lead for the Rule 60 subcommittee. No further discussion.

(5) RULE 3(A)(2). COMMENCEMENT OF ACTION.

Mr. Lee begins the discussion and review of the changes made to Rule 3(a)(2). Quinn Kofford who represents some of the large debtors in the state, makes a few comments. In his experience it is the language in the summons that causes the confusion, not the process. He believes this new language is better, but it would be good for laypersons to look at it as well. On his cases they will attempt to contact individuals forty times via phone, email, and text before filing. Some will not respond to informal attempts to resolve these issues. When they serve people before filing, they are able to resolve forty percent of the cases. He does not agree with the “may” language because if the person does not respond, then they “will” file.

Greg Constantino and Lacey Cherrington also provide comments on the proposed changes to the rule. Ms. Cherrington will attempt to contact individuals multiple times and ways. Sometimes the only way to get a response is via filing. Her experience in talking to court clerks is that it is not a problem and they are not overwhelmed by phone calls by individuals calling to ask for phone numbers.

Susan Vogel states the Self-Help Center gets a lot of phone calls from individuals and questions how the court is supposed to send individuals information after a case is filed when they are so hard to track down for service of process. There is further discussion on the burden on the party filing to provide notice to the other party when a case is filed, whether that notice can be accomplished by sending it to the same place as service, and that notices is as of the date it was sent, not received.

Additional discussions on referrals to the MyCase program, whether certified mail is a good option and the amount of time and money spent on skip tracing to find individuals. Also, some people cannot receive mail where they are being served. There is a suggestion that a simple form answer be included when an individual is served, and that even if notice is sent, there should still be a burden on the person to timely file an answer and check on the status of their case.

The issues and amendments are sent back to the subcommittee for further discussion and review.

(6) RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS.

Loni Page reviews the history and amendments to this rule. The rule was sent out for comment at the end of 2021 and the subcommittee has been working on changes to the rule based upon comments and discussions. Changes are being made to MyCase, but this is not happening as quickly as the rule is being changed. Additionally, the subcommittee would like to be consistent in

the use of terminology. Also, a question that has arisen is what to do with an undeliverable email, and since there is a process currently being used by the court internally, the language in the rule has been removed.

Other issues discussed include who serves signed orders, whether subsection (2) is necessary regarding defaults when a plaintiff may not have an address for a respondent so they are being asked to do the impossible, and changing “appear” to “file and serve” may have unintended consequences in some cases where there may be a default after a party fails to appear. Furthermore, the Committee is being asked whether to use the language “licensed attorney or paralegal” throughout the rule or just “legal professional” given the language of Rule 86. The Committee prefers the language “licensed attorney and paralegal” or “attorney(s)” over the use of “legal professional,” and this terminology should be used throughout. Finally, Michael Stahler mentions the addition to (b)(5)(C) is good but some lawyers may not catch this change and should make sure they are aware.

There was a directive from the Supreme Court to address specific language and amendments so the Committee must either resolve the issue raised or explain why no changes is recommended. The rule will go back to the subcommittee for further discussion and review. Mr. Stahler is added to the Rule 5 subcommittee.

(7) ADJOURNMENT.

The meeting adjourned at 5:59 p.m.

Tab 2

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 must include ~~the~~ all current contact information for the attorney's client including the
5 ~~physical mailing~~ address, ~~the~~ email address, and ~~and~~ the cell-phone number if known
6 and not safeguarded by Rule 76. ~~of the attorney's client and a~~The notice of withdrawal
7 must include a statement that no motion is pending and no hearing or trial has been set.
8 Unless the party continues to be represented by counsel as described by subsection (e)
9 of this rule, ~~when~~if a motion is pending or a hearing or trial has been set, an attorney
10 may not withdraw except upon motion and order of the court. The motion to withdraw
11 shall describe the nature of any pending motion and the date and purpose of any
12 scheduled hearing or trial including contact information for the attorney's client
13 pursuant to Rule 76.

14 (b) **Withdrawal of limited appearance.** An attorney who has entered a limited
15 appearance under Rule 75 shall withdraw from the case upon the conclusion of the
16 purpose or proceeding identified in the Notice of Limited Appearance:

17 ~~(b)~~(1) by filing and serving a notice of withdrawal; or

18 ~~(b)~~(2) if permitted by the judge, by orally announcing the withdrawal on the record
19 in a proceeding.

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

22 (c) **Notice to ~~a~~Appear or ~~a~~Appoint ~~c~~Counsel.** If an attorney withdraws other than
23 under subdivision (b), dies, is suspended from the practice of law, is disbarred, or is
24 removed from the case by the court, the opposing party shall serve a Notice to Appear
25 or Appoint Counsel on the unrepresented party, informing the party of the
26 responsibility to appear personally or appoint counsel. A copy of the Notice to Appear
27 or Appoint Counsel must be filed with the court. No further proceedings shall be held

28 in the case until 21 days after filing the Notice to Appear or Appoint Counsel unless the
29 unrepresented party waives the time requirement or unless otherwise ordered by the
30 court.

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

35 (e) **Withdrawal when the party continues to be represented by counsel.** An attorney
36 may withdraw from representing a party if the party continues to be represented by
37 other counsel who has already entered an appearance. The attorney seeking to
38 withdraw must file a notice of withdrawal of counsel stating that the party continues to
39 be represented by counsel. Upon filing the notice, the clerk of the court will terminate
40 the attorney from the case.

41

42 Effective date:

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Tab 3

Summary of Proposed Changes to Rule 5

Various stylistic changes to conform with Utah Supreme Court's Style Guide for Editing Rules

- *Document(s)* instead of *paper(s)*
- *Court clerk* or *the clerk* instead of *clerk of the court*
- Removed paragraphs in citations

(a)(1) Documents that must be served

Simplifies what must be served by stating that every document filed with the court after the original complaint must be served, except:

- Ex parte motions under [Rule 7](#)

(a)(2) Serving Parties in default

Being worked on by a different subcommittee.

(b)(1) Whom to serve.

Proposed changes approved by committee during its September 2023 meeting.

(b)(3)(A) Methods of Service

MyCase is being programmed to Rule 5. These proposed changes will only make service requirements more clear for all parties. Communication regarding MyCase being considered an electronic filing account for purposes of Rule 5 service will be managed by the AOC.

(b)(5) Who serves.

Clarifies that orders signed by the court but not prepared by the court are to be served by the party who prepared it. Rule 7 makes it clear that proposed orders are to be served by the filing party but not signed orders. There has been much discussion about this topic by our committee, clerks of court, and judges.

Known issues and previous discussion notes:

- "Prepared by" can be interpreted as the filer or the court, once signed or modified
- It is not clear to a Judicial Assistant when the court modifies the proposed order
- Previous guidance received by the court's office of general counsel said the "genesis" of the a document needs to be considered
- With very few exceptions, every document filed must be served which would include signed orders.
- Many attorneys only serve the proposed order and not the signed order as a general practice

- Many courts are not serving them either as they did not “prepare” the order and do not have the staff to serve everything they sign.
- Who are we missing when the signed order is not served?
 - Self-represented parties who do not have an electronic filing account (MyCase).

Conclusion reached by the subcommittee:

- It usually benefits the preparer for other parties to be served with the signed order therefore, the burden to serve should follow the original document preparer.

(d) Certificate of service.

Right now, only the court is exempt from filing a certificate of service when serving under (b)(3)(A) *electronic filing*. These proposed changes would not require a certificate of service by anyone with an electronic filing unless service was made by email, mail or other methods.

(e) Filing.

Proposed changes mirror those found in CJA Rules 4-503/603/801/901 and 9-302 *Mandatory filing and exceptions* that state that self-represented parties who are not attorneys may file via email, mail, MyCase or in person.

1 **Rule 5. Service and filing of pleadings and other ~~papers~~ documents.**

2 **(a) When service is required.**

3 **(1) ~~Papers~~ Documents that must be served.** Unless permitted by statute, rule, or
4 court order, ~~Except as otherwise provided in these rules or as otherwise directed by~~
5 ~~the court,~~ the following papers every document filed with the court after the
6 original complaint must be served by the party filing it on every party to the case. Ex
7 parte motions may be filed without serving if permitted under Rule 7.

8 ~~(A) a judgment;~~

9 ~~(B) an order that states it must be served;~~

10 ~~(C) a pleading after the original complaint;~~

11 ~~(D) a paper relating to disclosure or discovery;~~

12 ~~(E) a paper filed with the court other than a that may be heard ex parte; and~~

13 ~~(F) a written notice, appearance, demand, offer of judgment, or similar paper.~~

14 **(2) Serving parties in default.** No service is required on a party who is in default
15 except that:

16 (A) a party in default must be served as ordered by the court;

17 (B) a party in default for any reason other than for failure to file and serve a
18 responsive pleading or otherwise appear must be served as provided in
19 paragraph (a)(1);

20 (C) a party in default for any reason must be served with notice of any hearing to
21 determine the amount of damages to be entered against the defaulting party;

22 (D) a party in default for any reason must be served with notice of entry of
23 judgment under Rule 58A(g) and

24 (E) a party in default for any reason must be served under Rule 4 with pleadings
25 asserting new or additional claims for relief against the party.

Comment [LP1]: Supreme Court Style Guide recommendation

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Comment [LP2]: We changed the list from what must be served to only those that are an exception as stated in other rules or as directed by the court.

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Comment [LP3]: Summons must now include the bilingual notice (Rule 4 c1g) which is the court's form. Attorneys are supposed to attach the notice to their summons templates.

Comment [LP4]: 3-2023 Committee Mtg: hesitant to narrowly define what it means to appear so we added language instead of replacing "appear."

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Comment [LP5]: Style Guide: only cite statute or rule if provides clarity and consistency. When citing, do not cite specific paragraph.

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26 | **(3) Service in actions begun by seizing property.** If an action is begun by seizing
 27 | property and no person is or need be named as defendant, any service required
 28 | before the filing of an answer, claim or appearance must be made upon the person
 29 | who had custody or possession of the property when it was seized.

30 | **(b) How service is made.**

31 | **(1) Whom to serve.** If a party is self-represented, service must be made upon the
 32 | self-represented party. If a party is represented by an attorney, a ~~paper~~-document
 33 | served under this rule must be served upon the attorney unless the court orders
 34 | service upon the party. Service must be made upon the attorney and the party if:

35 | (A) an attorney has filed a Notice of Limited Appearance under Rule 75 and the
 36 | ~~papers~~-documents being served relate to a matter within the scope of the Notice;
 37 | or

38 | (B) a final judgment has been entered in the action and more than 90 days has
 39 | elapsed from the date a ~~paper~~-document was last served on the attorney.

40 | **(2) When to serve.** If a hearing is scheduled 7 days or less from the date of service, a
 41 | party must serve a ~~paper~~-document related to the hearing by the method most likely
 42 | to be promptly received. Otherwise, a ~~paper~~-document that is filed with the court
 43 | must be served before or on the same day that it is filed.

44 | **(3) Methods of service.** A ~~paper~~-document is served under this rule by:

45 | (A) **Electronic filing.** ~~except~~-Except in the juvenile court, a ~~paper~~-document is
 46 | served by submitting it for electronic filing, or the court submitting it to the
 47 | electronic filing service provider, if the person being served has an electronic
 48 | filing account;

49 | (B) **Email.** If the party serving or being served a document does not have an
 50 | electronic filing account, emailing it to

Comment [LP6]: Added clarity for self-represented parties.

Comment [LP7]: Proposed changes approved by committee during its September 2023 meeting.

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Comment [LP8]: From Lauren: I think the new URCP 5(b)(3) was meant to allow electronic service wherever possible. But I came across a scenario today that did not allow for electronic service on opposing counsel – and that is a request for a foreign subpoena to be served in Utah. So Florida case needing discovery in Utah, and I have to serve opposing counsel in FL via mail because they don't meet either URCP 5(b)(3)(A) or (B). Could you all please take a look at how to encompass this scenario into the language of 5(b)(3)?

Comment [LP9]: Committee's suggestion: (b)(3)(B)(ii) and (iii)

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51 (i) the most recent email address the person being served has provided by
 52 ~~the person~~ to the court ~~and other parties~~ under Rule 10(a)(3) or Rule 76; or
 53 (ii) ~~to~~ if service is to an attorney licensed in Utah, to the email address on
 54 the attorney’s pleadings and/or on file with the Utah State Bar; or
 55 (iii) if service is to an attorney licensed outside of Utah, to the email
 56 address on the attorney’s pleadings and/or on file with the attorney
 57 licensing entity in the state the attorney is licensed in.

- Comment [LP10]: “under” or “pursuant to”?
- Comment [LP11]: Style guide: “as provided in Rule...”
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58 (C) Mail and other methods. If the party serving or being served with a
 59 ~~paper~~ document does not have an electronic filing account or email, a ~~paper~~
 60 document may be served under this paragraph by:

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61 (i) mailing it to the most recent address the person being served has provided
 62 to the court under Rule 10 or Rule 76, or, if none, the person’s last known
 63 address;
 64 ~~(D)~~ (ii) handing it to the person;
 65 ~~(E)~~ (iii) leaving it at the person’s office with a person in charge or, if no one is
 66 in charge, leaving it in a receptacle intended for receiving deliveries or in a
 67 conspicuous place;
 68 ~~(F)~~ (iv) leaving it at the person’s dwelling house or usual place of abode with a
 69 person of suitable age and discretion who resides there; or
 70 ~~(G)~~ (v) any other method agreed to in writing by the parties.

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71 (4) **When service is effective.** Service by mail or electronic means is complete upon
 72 sending.

73 (5) **Who serves.** Unless otherwise directed by the court or these rules:
 74 (A) every ~~paper~~ document required to be served must be served by the party
 75 preparing it; and
 76 (B) every ~~paper~~ document prepared by the court will be served by the court; and:

77 (C) every document signed by the court but not prepared by the court will be
78 served by the party who prepared it.

79 **(c) Serving numerous defendants.** If an action involves an unusually large number of
80 defendants, the court, upon motion or its own initiative, may order that:

81 (1) a defendant's pleadings and replies to them do not need to be served on the other
82 defendants;

83 (2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's
84 pleadings and replies to them are deemed denied or avoided by all other parties;

85 (3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice
86 of them to all other parties; and

87 (4) a copy of the order must be served ~~up~~ upon the parties.

88 **(d) Certificate of service.** No certificate of service is required when a ~~paper~~ document is
89 served ~~by filing it with~~ through the ~~an~~ court's electronic filing system account under
90 paragraph (b)(3)(A). When a ~~paper~~ document that is required to be served is served by
91 email, mail or other ~~means~~ methods:

92 (1) if the ~~paper~~ document is filed with the court, a certificate of service showing the
93 date and manner of service must be filed with it or within a reasonable time after
94 service; and

95 (2) if the ~~paper~~ document is not filed with the court, a certificate of service need not
96 be filed unless filing is required by rule or court order. ~~A paper required by this rule~~
97 ~~to be served, including electronically filed papers, must include a signed certificate~~
98 ~~of service showing the name of the document served, the date and manner of~~
99 ~~service and on whom it was served. Except in the juvenile court, this paragraph~~
100 ~~does not apply to papers required to be served under paragraph (b)(5)(B) when~~
101 ~~service to all parties is made under paragraph (b)(3)(A).~~

Comment [LP12]: Our initial change is probably premature for service by and on MyCase users so we will return to previous language for the time being.

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102 (e) Filing. Except as provided in Rule 7(i) and Rule 26(f), all ~~papers~~ documents after the
 103 complaint that are required to be served must be filed with the court. ~~Parties~~ Attorneys
 104 with an electronic filing account must file a ~~paper~~ document electronically. A self-
 105 represented party who is not an attorney ~~without an electronic filing account~~ may file a
 106 ~~paper~~ document ~~by delivering it to~~ with the court ~~clerk of the court or to a judge of the~~
 107 ~~court~~ using any of the following methods:

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- 108 (1) email;
- 109 (2) mail;
- 110 (3) the court’s MyCase interface, where applicable; or
- 111 (4) in person.

112 Filing is complete upon the earliest of acceptance by the electronic filing system or by ~~;~~
 113 ~~the court~~ clerk of court or the judge.

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Comment [LP13]: “the clerk or judge” is the original language of who can accept a filing. But that’s not current practice, right? How can we reword?

114 (f) Filing an affidavit or declaration. If a person files an affidavit or declaration, the
 115 filer may:

Comment [LP14]: Track changes with Aff/Dec sub-committee

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- 116 (1) electronically file the original affidavit with a notary acknowledgment as
 117 provided by Utah Code Section 46-1-16(7);
- 118 (2) electronically file a scanned image of the affidavit or declaration;
- 119 (3) electronically file the affidavit or declaration with a conformed signature; or
- 120 (4) if the filer does not have an electronic filing account, present the original affidavit
 121 or declaration to the court ~~clerk of the court~~, and the clerk will electronically file a
 122 scanned image and return the original to the filer.

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123 The filer must keep an original affidavit or declaration of anyone other than the filer
 124 safe and available for inspection upon request until the action is concluded, including
 125 any appeal or until the time in which to appeal has expired.

126 Effective May/November 2024

127 **Advisory Committee Notes**128 *Note adopted ~~2015~~20---*

129 Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the
130 document on ~~lawyers~~parties who have an e-filing account. (~~Lawyers~~Attorneys
131 representing parties in the district court are required to have an account and
132 electronically file documents. Code of Judicial Administration Rule 4-503.) The 2015
133 amendment excepts from this provision documents electronically filed in juvenile court.

134 Although electronic filing in the juvenile court presents to the parties the documents
135 that have been filed, the juvenile court e-filing application (CARE), unlike that in the
136 district court, does not deliver an email alerting the party to that fact. The Board of
137 Juvenile Court Judges and the Advisory Committee on the Rules of Juvenile Procedure
138 believe this difference renders electronic filing alone insufficient notice of a document
139 having been filed. So in the juvenile court, a party electronically filing a document must
140 serve that document by one of the other permitted methods.

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1 **Rule 5. Service and filing of pleadings and other documents.**

2 **(a) When service is required.**

3 **(1) Documents that must be served.** Unless permitted by statute, rule, or court
4 order, every document filed with the court after the original complaint must be
5 served by the party filing it on every party to the case. Ex parte motions may be filed
6 without serving if permitted under Rule 7.

7 **(2) Serving parties in default.** No service is required on a party who is in default
8 except that:

9 (A) a party in default must be served as ordered by the court;

10 (B) a party in default for any reason other than for failure to file and serve a
11 responsive pleading or otherwise appear must be served as provided in paragraph
12 (a)(1);

13 (C) a party in default for any reason must be served with notice of any hearing to
14 determine the amount of damages to be entered against the defaulting party;

15 (D) a party in default for any reason must be served with notice of entry of
16 judgment under Rule 58A and

17 (E) a party in default for any reason must be served under Rule 4 with pleadings
18 asserting new or additional claims for relief against the party.

19 **(3) Service in actions begun by seizing property.** If an action is begun by seizing
20 property and no person is or need be named as defendant, any service required before
21 the filing of an answer, claim or appearance must be made upon the person who had
22 custody or possession of the property when it was seized.

23 **(b) How service is made.**

24 **(1) Whom to serve.** If a party is self-represented, service must be made upon the self-
25 represented party. If a party is represented by an attorney, a document served under

26 this rule must be served upon the attorney unless the court orders service upon the
27 party. Service must be made upon the attorney and the party if:

28 (A) an attorney has filed a Notice of Limited Appearance under Rule [75](#) and the
29 documents being served relate to a matter within the scope of the Notice; or

30 (B) a final judgment has been entered in the action and more than 90 days has
31 elapsed from the date a document was last served on the attorney.

32 **(2) When to serve.** If a hearing is scheduled 7 days or less from the date of service, a
33 party must serve a document related to the hearing by the method most likely to be
34 promptly received. Otherwise, a document that is filed with the court must be served
35 before or on the same day that it is filed.

36 **(3) Methods of service.** A document is served under this rule by:

37 (A) **Electronic filing.** Except in the juvenile court, a document is served by
38 submitting it for electronic filing, or the court submitting it to the electronic filing
39 service provider, if the person being served has an electronic filing account;

40 (B) **Email.** If the party serving or being served a document does not have an
41 electronic filing account, emailing it to

42 (i) the most recent email address the person being served has provided to
43 the court under [Rule 10](#) or [Rule 76](#); or

44 (ii) if service is to an attorney licensed in Utah, to the email address on the
45 attorney's pleadings and/or on file with the Utah State Bar; or

46 (iii) if service is to an attorney licensed outside of Utah, to the email address
47 on the attorney's pleadings and/or on file with the attorney licensing entity
48 in the state the attorney is licensed in.

49 **(C) Mail and other methods.** If the party serving or being served with a document
50 does not have an electronic filing account or email, a document may be served
51 under this paragraph by:

52 (i) mailing it to the most recent address the person being served has provided
53 to the court under Rule 10 or Rule 76, or, if none, the person's last known
54 address;

55 (ii) handing it to the person;

56 (iii) leaving it at the person's office with a person in charge or, if no one is in
57 charge, leaving it in a receptacle intended for receiving deliveries or in a
58 conspicuous place;

59 (iv) leaving it at the person's dwelling house or usual place of abode with a
60 person of suitable age and discretion who resides there; or

61 (v) any other method agreed to in writing by the parties.

62 **(4) When service is effective.** Service by mail or electronic means is complete upon
63 sending.

64 **(5) Who serves.** Unless otherwise directed by the court or these rules:

65 (A) every document required to be served must be served by the party preparing
66 it; and

67 (B) every document prepared by the court will be served by the court; and

68 (C) every document signed by the court but not prepared by the court will be
69 served by the party who prepared it.

70 **(c) Serving numerous defendants.** If an action involves an unusually large number of
71 defendants, the court, upon motion or its own initiative, may order that:

72 (1) a defendant's pleadings and replies to them do not need to be served on the other
73 defendants;

74 (2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's
75 pleadings and replies to them are deemed denied or avoided by all other parties;

76 (3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice
77 of them to all other parties; and

78 (4) a copy of the order must be served on the parties.

79 **(d) Certificate of service.** No certificate of service is required when a document is served
80 through an electronic filing account under paragraph (b)(3)(A). When a document that
81 is required to be served is served by email, mail or other methods:

82 (1) if the document is filed with the court, a certificate of service showing the date
83 and manner of service must be filed with it or within a reasonable time after service;
84 and

85 (2) if the document is not filed with the court, a certificate of service need not be filed
86 unless filing is required by rule or court order.

87 **(e) Filing.** Except as provided in Rule [7](#) and Rule [26](#), all documents after the complaint
88 that are required to be served must be filed with the court. Attorneys with an electronic
89 filing account must file a document electronically. A self-represented party who is not an
90 attorney may file a document with the court using any of the following methods:

91 (1) email;

92 (2) mail;

93 (3) the court's MyCase interface, where applicable; or

94 (4) in person.

95 Filing is complete upon the earliest of acceptance by the electronic filing system or by the
96 court.

97 **(f) Filing an affidavit or declaration.** If a person files an affidavit or declaration, the filer
98 may:

99 (1) electronically file the original affidavit with a notary acknowledgment as provided
100 by Utah Code Section [46-1-16](#);

- 101 (2) electronically file a scanned image of the affidavit or declaration;
- 102 (3) electronically file the affidavit or declaration with a conformed signature; or
- 103 (4) if the filer does not have an electronic filing account, present the original affidavit
104 or declaration to the court clerk, and the clerk will electronically file a scanned image
105 and return the original to the filer.

106 The filer must keep an original affidavit or declaration of anyone other than the filer safe
107 and available for inspection upon request until the action is concluded, including any
108 appeal or until the time in which to appeal has expired.

109 *Effective May/November 2024*

110 **Advisory Committee Notes**

111 *Note adopted 20---*

112 Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the
113 document on parties who have an e-filing account. (Attorneys representing parties in the
114 district court are required to have an account and electronically file documents. Code of
115 Judicial Administration Rule 4-503.) The 2015 amendment excepts from this provision
116 documents electronically filed in juvenile court.

117 Although electronic filing in the juvenile court presents to the parties the documents that
118 have been filed, the juvenile court e-filing application (CARE), unlike that in the district
119 court, does not deliver an email alerting the party to that fact. The Board of Juvenile Court
120 Judges and the Advisory Committee on the Rules of Juvenile Procedure believe this
121 difference renders electronic filing alone insufficient notice of a document having been
122 filed. So in the juvenile court, a party electronically filing a document must serve that
123 document by **one** of the other permitted methods.

Tab 4

Rule 4. Process.

There was a request indicating that the requirements for a person serving process found in Utah Code §78B-8-302(7) are not found in the process outlined by URCP Rule 4. Specifically, the statute requires the following:

- (a) legibly document the date and time of service on the front page of the document being served;
- (b) legibly print the process server's name, address, and telephone number on the return of service;
- (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;
- (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and
- (e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

And Rule 4(e) requires the following:

- (1) The person effecting service must file proof of service stating the date, place, and manner of service, including a copy of the summons. If service is made by a person other than by an attorney, sheriff, constable, United States Marshal, or by the sheriff's, constable's or marshal's deputy, the proof of service must be by affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act.
- (2) Proof of service in a foreign country must be made as prescribed in these rules for service within this state, or by the law of the foreign country, or by order of the court.
- (3) When service is made pursuant to paragraph(d)(4)(C), proof of service must include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.
- (4) Failure to file proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

1 **Rule 4. Process.**

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

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

10 **(c) Contents of summons.**

11 (1) The summons must:

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

14 (B) be directed to the defendant;

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

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

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

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

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

25 (2) If the action is commenced under Rule [3\(a\)\(2\)](#), the summons must also:

26 (A) state that the defendant need not answer if the complaint is not filed within
27 10 days after service; and

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

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

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

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

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

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

51 (C) Upon an individual judicially declared to be incapacitated, of unsound mind,
52 or incapable of conducting the individual's own affairs, by delivering a copy of
53 the summons and complaint to the individual and to the guardian or conservator
54 of the individual if one has been appointed; the individual's legal representative
55 if one has been appointed, and, in the absence of a guardian, conservator, or legal
56 representative, to the person, if any, who has care, custody, or control of the
57 individual;

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

65 (E) Upon a corporation not otherwise provided for in this rule, a limited liability
66 company, a partnership, or an unincorporated association subject to suit under a
67 common name, by delivering a copy of the summons and complaint to an officer,

68 a managing or general agent, or other agent authorized by appointment or law to
69 receive process and by also mailing a copy of the summons and complaint to the
70 defendant, if the agent is one authorized by statute to receive process and the
71 statute so requires. If no officer or agent can be found within the state, and the
72 defendant has, or advertises or holds itself out as having, a place of business
73 within the state or elsewhere, or does business within this state or elsewhere,
74 then upon the person in charge of the place of business;

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

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

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

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

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

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

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

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

98 (B) The summons and complaint may be served upon an entity covered by
99 paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service in
100 any state or judicial district of the United States provided defendant's agent

101 authorized by appointment or by law to receive service of process signs a
102 document indicating receipt.

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

105 **(3) Acceptance of service.**

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

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

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

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

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

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

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

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

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

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

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

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

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

149 **(5) Other service.**

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

158 (B) If the motion is granted, the court will order service of the complaint and
159 summons by means reasonably calculated, under all the circumstances, to
160 apprise the named parties of the action. The court's order must specify the
161 content of the process to be served and the event upon which service is complete.
162 Unless service is by publication, a copy of the court's order must be served with
163 the process specified by the court.

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

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

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

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

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

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

182

183 *Effective: Nov. 1, 2023*

184

Effective 5/3/2023

78B-8-302 Process servers.

- (1) A complaint, a summons, or a subpoena may be served by a person who is:
 - (a) 18 years old or older at the time of service; and
 - (b) not a party to the action or a party's attorney.
- (2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:
 - (a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;
 - (b) a sheriff or appointed deputy sheriff employed by a county of the state;
 - (c) a constable, or the constable's deputy, serving in compliance with applicable law;
 - (d) an investigator employed by the state and authorized by law to serve civil process; and
 - (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.
- (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- (4) While serving process, a private investigator shall:
 - (a) have on the investigator's person a visible form of credentials and identification identifying:
 - (i) the investigator's name;
 - (ii) that the investigator is a licensed private investigator; and
 - (iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;
 - (b) verbally communicate to the person being served that the investigator is acting as a process server; and
 - (c) print on the first page of each document served:
 - (i) the investigator's name and identification number as a private investigator; and
 - (ii) the address and phone number for the investigator's place of business.
- (5) Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:
 - (a) a law enforcement officer, as defined in Section 53-13-103; or
 - (b) a special function officer, as defined in Section 53-13-105, who is:
 - (i) employed as an appointed deputy sheriff by a county of the state; or
 - (ii) a constable.
- (6) The following may not serve process issued by a court:
 - (a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102(18); or
 - (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.
- (7) A person serving process shall:
 - (a) legibly document the date and time of service on the front page of the document being served;
 - (b) legibly print the process server's name, address, and telephone number on the return of service;
 - (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;
 - (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Amended by Chapter 49, 2023 General Session
Amended by Chapter 123, 2023 General Session

Tab 5

**JOINT RESOLUTION AMENDING RULES OF CIVIL
PROCEDURE ON CHANGE OF JUDGE AS A MATTER OF RIGHT**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This joint resolution amends Rule 63A of the Utah Rules of Civil Procedure regarding the change of judge as a matter of right.

Highlighted Provisions:

This resolution:

- ▶ amends Rule 63A of the Utah Rules of Civil Procedure to allow for a change of judge by a party in a civil action; and
- ▶ makes technical and conforming changes.

Special Clauses:

This resolution provides a special effective date.

Utah Rules of Evidence Affected:

AMENDS:

Rule 63A, Utah Code of Evidence Procedure, as Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. **Rule 63A** Utah Rules of Civil Procedure is amended to read:

Rule 63A. Change of judge as a matter of right.

(a) Change of judge by one side of an action.

(a) (1) Right to change a judge by one side of an action.

(a) (1) (A) In a civil action pending in a court in a county with seven or more district

33 court judges, each side is entitled to one change of judge as a matter of right under this
34 paragraph (a).

35 (a) (1) (B) Even if two or more parties on one side of a civil action have adverse or
36 hostile interests, the action, whether single or consolidated, must be treated as only having two
37 sides for purposes of a changing judge under this paragraph (a).

38 (a) (1) (C) A side is not entitled to more than one change of judge under this paragraph
39 (a).

40 (a) (1) (D) Regardless of when a party joins a civil action, a party is not entitled to a
41 change of judge as a matter of right under this paragraph (a) if the notice of a change of judge
42 is untimely under paragraph (a)(2).

43 **(a) (2) Notice of a change of judge.**

44 (a) (2) (A) A party seeking a change of judge under this paragraph (a) must file a notice
45 of a change of judge with the clerk of the court.

46 (a) (2) (B) If the notice of a change of judge is timely under this paragraph (a)(2), the
47 notice must be granted.

48 (a) (2) (C) In filing a notice of a change of judge under this paragraph (a), a party is not
49 required to state any reason for seeking a change of judge, but the party must attest in good
50 faith that the notice is not being filed:

51 (a) (2) (C) (i) for the purpose to delay any action or proceeding; or

52 (a) (2) (C) (ii) to change the judge on the grounds of race, gender, or religious
53 affiliation.

54 (a) (2) (D) The notice must be filed:

55 (a) (2) (D) (i) on the side of a plaintiff or petitioner, within seven days after the day on
56 which a judge is first assigned to the action or proceeding; or

57 (a) (2) (D) (ii) on the side of a defendant or respondent, within seven days after the day
58 on which the defendant or respondent is served the complaint or petition, or at the time of the
59 first filing by the defendant or respondent with the court, whichever occurs first.

60 (a) (2) (E) Failure to file a timely notice of a change of judge under this rule precludes
61 a change of judge under this paragraph (a).

62 **(a) (3) Assignment of action.**

63 (a) (3) (A) Upon the filing of a notice under this paragraph (a), the judge assigned to

64 the action must take no further action in the case.

65 (a) (3) (B) The action must be promptly reassigned to another judge within the county.

66 (a) (3) (C) If the action is unable to be reassigned to another judge within the county,

67 the action may be transferred to a court in another county in accordance with Rule 42.

68 (a) (4) Exceptions. A party, or a side, is not entitled to change a judge as a matter of
69 right under this paragraph (a):

70 (a) (4) (A) in any proceeding regarding a petition for post-conviction relief under Rule
71 65C;

72 (a) (4) (B) on a petition to modify child custody, child support, or alimony, unless the
73 judge assigned to the action is not the same judge assigned to any of the previous actions
74 between the parties;

75 (a) (4) (C) in an action before the juvenile court or the Business and Chancery Court;

76 (a) (4) (D) in an action in which the judge is sitting as a water or tax judge;

77 (a) (4) (E) in an action on remand from an appellate court; or

78 (a) (4) (F) if an action is unable to be transferred under paragraph (a)(3)(C) to another
79 county in accordance with Rule 42.

80 ~~[(a) Notice of change.]~~ **(b) Right to change a judge by agreement of the parties.**

81 **(b) (1) Notice of a change of judge.**

82 (b) (1) (A) Except in actions with only one party, all parties joined in the action may,
83 by unanimous agreement and without cause, change the judge assigned to the action by filing a
84 notice of change of judge.

85 (b) (1) (B) The parties shall send a copy of the notice to the assigned judge and the
86 presiding judge.

87 (b) (1) (C) The notice shall be signed by all parties and shall state: (1) the name of the
88 assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in
89 the action have agreed to the change; (4) that no other persons are expected to be named as
90 parties; and (5) that a good faith effort has been made to serve all parties named in the
91 pleadings.

92 (b) (1) (D) The notice shall not specify any reason for the change of judge.

93 (b) (1) (E) Under no circumstances shall more than one change of judge be allowed
94 under this ~~rule~~ paragraph (b) in an action.

95 **(b) (2) Time for filing a notice.**

96 (b) (2) (A) Unless extended by the court upon a showing of good cause, the notice
97 must be filed within 90 days after commencement of the action or prior to the notice of trial
98 setting, whichever occurs first.

99 (b) (2) (B) Failure to file a timely notice precludes any change of judge under this
100 ~~rule~~ paragraph (b).

101 ~~(b) (3)~~ **(b) (3) Assignment of action.**

102 (b) (3) (A) Upon the filing of a notice of change, the assigned judge shall take no
103 further action in the case.

104 (b) (3) (B) The presiding judge shall promptly determine whether the notice is proper
105 and, if so, shall reassign the action.

106 (b) (3) (C) If the presiding judge is also the assigned judge, the clerk shall promptly
107 send the notice to the associate presiding judge, to another judge of the district, or to any judge
108 of a court of like jurisdiction, who shall determine whether the notice is proper and, if so, shall
109 reassign the action.

110 ~~(b) (4)~~ **(b) (4) Nondisclosure to court.** No party shall communicate to the court, or
111 cause another to communicate to the court, the fact of any party's seeking consent to a notice of
112 change.

113 ~~(c)~~ **(c) Rule 63 unaffected.** ~~[This rule does not affect any rights under Rule 63.]~~

114 Nothing in this rule precludes the right of any party to seek disqualification of a judge under
115 Rule 63.

116 Section 2. **Effective date.**

117 (1) In accordance with Utah Constitution, Article VIII, Section 4, the amendments in
118 this resolution pass upon approval by a two-thirds vote of all members elected to each house.

119 (2) After passage of this resolution under Subsection (1), the amendments in this
120 resolution take effect on January 1, 2025.