

1 **Rule 63. Disability or disqualification of a judge.**

2 (a) **Substitute judge; prior testimony.** If the judge is unable to perform the judge's duties,  
3 then any judge assigned pursuant to Judicial Council rule is authorized to perform those  
4 duties. The judge to whom the case is reassigned may rehear the evidence or some part  
5 of it.

6 (b) **Motion to disqualify; affidavit or declaration.**

7 (1) A party may file a motion to disqualify the judge. The motion must be  
8 accompanied by a certificate that the motion is filed in good faith and must be  
9 supported by an affidavit or unsworn declaration as described in Title 78B, Chapter  
10 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias,  
11 prejudice, or conflict of interest. The motion must also be accompanied by a request  
12 to submit for decision.

13 (2) The motion must be filed after commencement of the action, but no later than 21  
14 days after the last of the following:

15 (A) assignment of the action or hearing to the judge;

16 (B) appearance of the party or the party's attorney; or

17 (C) the date on which the moving party knew or should have known of the  
18 grounds upon which the motion is based.

19 If the last event occurs fewer than 21 days before a hearing, the motion must be filed  
20 as soon as practicable.

21 (3) Signing the motion or affidavit or declaration constitutes a certificate under Rule  
22 11 of the Utah Rules of Civil Procedure and subjects the party or attorney to the  
23 procedures and sanctions of that rule.

24 (4) No party may file more than one motion to disqualify in an action, unless the  
25 second or subsequent motion is based on grounds that the party did not know of and  
26 could not have known of at the time of the earlier motion.

27 (5) If timeliness of the motion is determined under paragraph (b)(2)(C) or paragraph  
28 (b)(4), the affidavit or declaration supporting the motion must state when and how  
29 the party came to know of the reason for disqualification.

30 (c) **Consideration of the motion.**

31 (1) The judge who is the subject of the motion must, without further hearing or a  
32 response from another party, enter an order granting the motion or certifying the  
33 motion and affidavit or declaration to a reviewing judge.

34 (A) If the judge who is the subject of the motion grants it, the order will direct the  
35 presiding officer of the Judicial Council to assign another judge to the action or  
36 hearing.

37 (B) If the judge who is the subject of the motion certifies the motion to a reviewing  
38 judge, the judge who is the subject of the motion will take no further action in the  
39 case until the motion is decided.

40 (C) Only the judge designated by the presiding officer of the Judicial Council may  
41 serve as the reviewing judge.

42 (2) If the reviewing judge finds that the motion and affidavit or declaration are timely  
43 filed, filed in good faith, and are legally sufficient, the reviewing judge will request  
44 the presiding officer of the Judicial Council to assign another judge to the action or  
45 hearing.

46 (3) In determining issues of fact or of law, the reviewing judge may consider any part  
47 of the record of the action and may request of the judge who is the subject of the  
48 motion an affidavit or declaration responding to questions posed by the reviewing  
49 judge.

50 (4) The reviewing judge may deny a motion not filed in a timely manner.