

Rule 63. Disability or Disqualification of a judge.

Effective: 5/8/2018

(a) Substitute judge; ~~Prior~~prior testimony. If the judge to whom an action has been assigned is unable to perform his or her duties, then any other judge of that district or any judge assigned pursuant to Judicial Council rule is authorized to perform those duties. The judge to whom the case is reassigned may rehear the evidence or some part of it.

(b) Motion to disqualify; affidavit or declaration.

~~(b)(1)~~ (1) A party to an action or the party's attorney may file a motion to disqualify a judge.

(2) The motion must be accompanied by a certificate that the motion is filed in good faith and must be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice or conflict of interest. The motion must also be accompanied by a request to submit for decision.

~~(b)(2)~~ (3) The motion must be filed after commencement of the action, but not later than 21 days after the last of the following:

~~(b)(2)~~ (A) assignment of the action or hearing to the judge;

~~(b)(2)~~ (B) appearance of the party or the party's attorney; or

~~(b)(2)~~ (C) the date on which the moving party knew or should have known of the grounds upon which the motion is based.

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

~~(b)(3)~~ (4) Signing the motion or affidavit or declaration constitutes a certificate under Rule 11 and subjects the party or attorney to the procedures and sanctions of Rule 11.

~~(b)(4)~~(5) No party may file more than one motion to disqualify in an action, unless the second or subsequent motion is based on grounds that the party did not know of and could not have known of at the time of the earlier motion.

~~(b)(5)~~(6) If timeliness of the motion is determined under paragraph ~~(b)(2)(C)~~(b)(3)(C) or paragraph ~~(b)(4)~~(b)(5), the affidavit or declaration supporting the motion must state when and how the party came to know of the reason for disqualification.

(c) Reviewing judge.

~~(c)~~(1) The judge who is the subject of the motion must, without further hearing or a response from another party, enter an order granting the motion or certifying the motion and affidavit or declaration to a reviewing judge. The judge must take no further action in the case until the motion is decided. If the judge grants the motion, the order will direct the presiding judge of the court to assign another judge to the action or hearing. Assignment in justice court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109. The presiding judge of the court, any judge of the district, or any judge of a court of like jurisdiction may serve as the reviewing judge.

~~(c)~~(2) If the reviewing judge finds that the motion and affidavit or declaration are timely filed, filed in good faith and legally sufficient, the reviewing judge shall assign another judge to the action or hearing or request the presiding judge to do so. Assignment in justice court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109.

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

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

(d) Disqualification of a judge on a district court panel.

54 (1) A party may file a motion to disqualify a judge on a district court panel but may
55 not file a motion to disqualify a district court panel.

56 (2) The presiding officer of the Judicial Council is the reviewing judge for any
57 motion to disqualify a judge on a district court panel.

58 (3) If a motion to disqualify is granted for a judge on a district court panel:

59 (A) the action is not reassigned to a new district court panel; and

60 (B) a new judge must be promptly assigned in accordance with the random
61 selection process in the Utah Code of Judicial Administration for a district court
62 panel.

63 *Effective ~~May 8, 2018 pursuant to CJA Rule 11-105(5)~~ February 13, 2026*

64 The February 13, 2026 effective date is upon approval by a constitutional two-thirds
65 vote of all members elected to each house.