

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  
3 duties, then any judge assigned pursuant to Judicial Council rule is authorized to  
4 perform those duties. The judge to whom the case is reassigned may rehear the  
5 evidence or some part 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  
26 and 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  
35 the presiding officer of the Judicial Council to assign another judge to the action  
36 or hearing.

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

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

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

46 (3) In determining issues of fact or of law, the reviewing judge may consider any  
47 part 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.

51 *Effective May/November 1, 20\_\_*

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