

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 paragraph

19 (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 as provided in~~ Rule ~~58A(g);~~ and

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

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 before
28 the filing of an answer, claim, or appearance must be made upon the person who had
29 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 self-
32 represented party. If a party is represented by an attorney, a ~~paper~~-document served
33 under this rule must be served upon the attorney unless the court orders service upon
34 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 as provided in~~
36 Rule 75 and the ~~papers~~-documents being served relate to a matter within the scope
37 of the Notice; 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 ~~seven~~⁷ days or less from the date of
41 service, a party must serve a ~~paper~~-document related to the hearing by the method
42 most likely to be promptly received. Otherwise, a ~~paper~~-document that is filed with
43 the court 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 filing
48 account;

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

51 (i) the most recent email address the person being served has provided by
52 ~~the person~~ to the court ~~and other parties under~~ as provided in Rule 10 or
53 Rule 76; or

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

56 (iii) if service is to an attorney not licensed in ~~outside of~~ Utah, to the email
57 address on the attorney's pleadings and/or on file with the attorney
58 licensing entity in the state where the attorney is licensed ~~in~~.

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

62 (i) mailing it to the most recent address the person being served has provided
63 to the court ~~under~~ as provided in Rule 10 or Rule 76, or, if none, the person's
64 last known address;

65 ~~(D)~~ (ii) handing it to the person;

66 ~~(E)~~ (iii) leaving it at the person's office with a person in charge or, if no one is in
67 charge, leaving it in a receptacle intended for receiving deliveries or in a
68 conspicuous place;

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

71 ~~(G)~~ (v) any other method agreed to in writing by the parties.

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

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

75 (A) every ~~paper~~ document required to be served must be served by the party
76 preparing it, including subsequently signed orders and judgments; and

77 (B) every ~~paper~~ document initially prepared by the court ~~must~~will be served by
78 the court; ~~and~~.

79 (C) every document signed by the court that was initially prepared and filed by a
80 self-represented party or attorney but not prepared by the court~~must will~~ be
81 served on the other parties by the party or attorney who prepared it; and.

82 (D) service under this rule does not alter the effectiveness of the document.

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

85 (1) a defendant's pleadings and replies to those pleadings~~them~~ do not need to be
86 served on the other defendants;

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

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

91 (4) a copy of the order must be served ~~up~~on the parties.

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

96 (1) if the ~~paper~~ document is filed with the court, a certificate of service showing the
97 date and ~~manner~~ method of service, including the email or mailing address used,
98 unless safeguarded, must be filed with it or within a reasonable time after service;
99 and

100 (2) if the ~~paper~~ document is not filed with the court, a certificate of service need not
101 be filed unless filing is required by rule or court order.~~A paper required by this rule~~
102 ~~to be served, including electronically filed papers, must include a signed certificate~~

103 ~~of service showing the name of the document served, the date and manner of service~~
104 ~~and on whom it was served. Except in the juvenile court, this paragraph does not~~
105 ~~apply to papers required to be served under paragraph (b)(5)(B) when service to all~~
106 ~~parties is made under paragraph (b)(3)(A).~~

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

113 (1) email;

114 (2) mail;

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

116 (4) in person.

117 Filing is complete upon the earliest of acceptance by the electronic filing system or by ,
118 the court ~~clerk of court or the judge~~.

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

121 (1) electronically file the original affidavit with a notary acknowledgment as provided
122 by Utah Code ~~S~~ section 46-1-16(7);

123 (2) electronically file a scanned image of the affidavit or declaration;

124 (3) electronically file the affidavit or declaration with a conformed signature; or

125 (4) if the filer does not have an electronic filing account, present the original affidavit
126 or declaration to the court clerk ~~of the court~~, and the clerk will electronically file a
127 scanned image and return the original to the filer.

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

131 *Effective May/November 2024*

132 **Advisory Committee Notes**

133 ~~*Note adopted 201520*~~

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

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