

1 **Rule 65A. Injunctions.**

2 *Effective: ~~2/14/2023~~*

3 (a) **Preliminary injunctions.**

4 ~~(a)~~(1) **Notice.** No preliminary injunction shall be issued without notice to the
5 adverse party.

6 ~~(a)~~(2) **Consolidation of hearing.** Before or after the commencement of the
7 hearing of an application for a preliminary injunction, the court may order the
8 trial of the action on the merits to be advanced and consolidated with the hearing
9 of the application. Even when this consolidation is not ordered, any evidence
10 received upon an application for a preliminary injunction which would be
11 admissible at the trial on the merits becomes part of the trial record and need not
12 be repeated at the trial. This ~~subdivision-paragraph~~ (a)(2) shall be so construed
13 and applied as to save to the parties any rights they may have to trial by jury.

14 (b) **Temporary restraining orders.**

15 ~~(b)~~(1) **Notice.** No temporary restraining order shall be granted without notice to
16 the adverse party or that party's attorney unless (A) it clearly appears from
17 specific facts shown by affidavit or by the verified complaint that immediate and
18 irreparable injury, loss, or damage will result to the applicant before the adverse
19 party or that party's attorney can be heard in opposition, and (B) the applicant or
20 the applicant's attorney certifies to the court in writing as to the efforts, if any,
21 that have been made to give notice and the reasons supporting the claim that
22 notice should not be required.

23 ~~(b)~~(2) **Form of order.** Every temporary restraining order shall be endorsed with
24 the date and hour of issuance and shall be filed forthwith in the clerk's office and
25 entered of record. The order shall define the injury and state why it is
26 irreparable. The order shall expire by its terms within such time after entry, not
27 to exceed 14 days, as the court fixes, unless within the time so fixed the order, for
28 good cause shown, is extended for a like period or unless the party against
29 whom the order is directed consents that it may be extended for a longer period.
30 The reasons for the extension shall be entered of record.

31 ~~(b)~~(3) **Priority of hearing.** If a temporary restraining order is granted, the motion
32 for a preliminary injunction shall be scheduled for hearing at the earliest possible
33 time and takes precedence over all other civil matters except older matters of the
34 same character. When the motion comes on for hearing, the party who obtained

35 the temporary restraining order shall have the burden to show entitlement to a
36 preliminary injunction; if the party does not do so, the court shall dissolve the
37 temporary restraining order.

38 ~~(b)~~(4) **Dissolution or modification.** On 48 hours' notice to the party who
39 obtained the temporary restraining order without notice, or on such shorter
40 notice to that party as the court may prescribe, the adverse party may appear and
41 move its dissolution or modification. In that event the court shall proceed to hear
42 and determine the motion as expeditiously as the ends of justice require.

43 **(c) Filing requirements for a temporary restraining order or preliminary injunction of**
44 **a state law.**

45 **(1) Definition.** As used in this paragraph (c), "state law" means a state statute, a
46 proposed amendment to the Utah Constitution, or any other legislation passed
47 by the Legislature.

48 **(2) Temporary restraining order for a state law with delayed implementation.**

49 **(A) An applicant must file a motion for a temporary restraining order at**
50 **least 45 days before a state law takes effect if:**

51 **(i) the state law takes effect more than 60 days after the day on**
52 **which the Legislature adjourns sine die from the general or special**
53 **session in which the Legislature passed the state law;**

54 **(ii) the applicant is challenging the constitutionality of the state law;**
55 **and**

56 **(iii) the applicant seeks to enjoin the execution or enforcement of**
57 **the state law before the state law becomes effective.**

58 **(B) If an applicant fails to bring a motion for a temporary restraining order**
59 **under paragraph (c)(3)(A) before the 45-day requirement, the applicant**
60 **may not bring a motion for a temporary restraining order to enjoin the**
61 **execution or enforcement of the state law until the state law has been in**
62 **effect for at least 90 days.**

63 **(C) This paragraph (c)(2) does not preclude an applicant from bringing a**
64 **motion for a preliminary injunction to enjoin the execution or enforcement**
65 **of a state law that takes effect more than 60 days after the day on which**

66 the Legislature adjourns sine die from the general or special session in
67 which the Legislature passed the state law.

68 **(3) Response to motion for temporary restraining order or preliminary**
69 **injunction.** Notwithstanding the filing deadline for a response to a motion under
70 Rule 7 of the Utah Rules of Civil Procedure, an adverse party must file a
71 response to a motion for a temporary restraining order or preliminary injunction
72 within 28 days after a motion is filed if:

73 (A) the applicant is challenging the constitutionality of the state law; and

74 (B) the applicant seeks to enjoin the execution or enforcement of the state
75 law before the state law becomes effective.

76 **~~(e)~~(d) Security.**

77 **~~(e)~~(1) Requirement.** The court shall condition issuance of the order or injunction
78 on the giving of security by the applicant, in such sum and form as the court
79 deems proper, unless it appears that none of the parties will incur or suffer costs,
80 attorney fees or damage as the result of any wrongful order or injunction, or
81 unless there exists some other substantial reason for dispensing with the
82 requirement of security. No such security shall be required of the United States,
83 the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be
84 required when it is prohibited by law.

85 **~~(e)~~(2) Amount not a limitation.** The amount of security shall not establish or
86 limit the amount of costs, including reasonable attorney fees incurred in
87 connection with the restraining order or preliminary injunction, or damages that
88 may be awarded to a party who is found to have been wrongfully restrained or
89 enjoined.

90 **~~(e)~~(3) Jurisdiction over surety.** A surety upon a bond or undertaking under this
91 rule submits to the jurisdiction of the court and irrevocably appoints the clerk of
92 the court as agent upon whom any papers affecting the surety's liability on the
93 bond or undertaking may be served. The surety's liability may be enforced on
94 motion without the necessity of an independent action. The motion and such
95 notice of the motion as the court prescribes may be served on the clerk of the
96 court who shall forthwith mail copies to the persons giving the security if their
97 addresses are known.

98 ~~(e)~~(d) **Form and scope.** Every restraining order and order granting an injunction shall
99 set forth the reasons for its issuance. It shall be specific in terms and shall describe in
100 reasonable detail, and not by reference to the complaint or other document, the act or
101 acts sought to be restrained. It shall be binding only upon the parties to the action, their
102 officers, agents, servants, employees, and attorneys, and upon those persons in active
103 concert or participation with them who receive notice, in person or through counsel, or
104 otherwise, of the order. If a restraining order is granted without notice to the party
105 restrained, it shall state the reasons justifying the court's decision to proceed without
106 notice.

107 ~~(f)~~(e) **Grounds.** A restraining order or preliminary injunction may issue only upon a
108 showing by the applicant that:

109 ~~(e)~~(1) there is a substantial likelihood that the applicant will prevail on the merits
110 of the underlying claim:

111 ~~(e)~~(2) the applicant will suffer irreparable harm unless the order or injunction
112 issues;

113 ~~(e)~~(3) the threatened injury to the applicant outweighs whatever damage the
114 proposed order or injunction may cause the party restrained or enjoined; and

115 ~~(e)~~(4) the order or injunction, if issued, would not be adverse to the public
116 interest.

117 ~~(g)~~(f) **Motion for reconsideration.**

118 ~~(f)~~(1) A party enjoined or restrained by a restraining order or a preliminary
119 injunction on February 14, 2023, may move the court to reconsider whether the
120 order or injunction should remain in effect if the order or injunction:

121 (A) is in writing;

122 (B) is restraining or enjoining the enforcement of a law; and

123 (C) explicitly states that the court granted the order or injunction on the
124 ground that the case presented serious issues on the merits which should
125 be the subject of further litigation.

126 ~~(f)~~(2) A motion for reconsideration under this paragraph ~~(g)~~(f) may be filed at
127 any time before the final determination of the case.

128 ~~(f)~~(3) Upon a motion for reconsideration, the court must determine whether the
129 issuance of the restraining order or preliminary injunction meets the

130 requirements in paragraph (e) regardless of the requirements for the issuance of
131 the order or injunction on the day on which the order or injunction was issued.

132 ~~(f)~~(4) If the court determines that the issuance of the restraining order or
133 preliminary injunction does not meet the requirements of paragraph ~~(f)~~(e), the
134 court must terminate the order or injunction.

135 ~~(h)~~(g) **Domestic relations cases.** Nothing in this rule shall be construed to limit the
136 equitable powers of the courts in domestic relations cases.

137 As provided in Utah Constitution, Article VII, Section 4, this rule takes effect upon a
138 two-thirds vote of all members elected to each house [INSERT EFFECTIVE DATE]