

1 Rule 29. Disability and disqualification of a judge or change of venue.

2 (a) If, by reason of death, sickness, or other disability, the judge before whom a trial
3 has begun is unable to continue with the trial, any other judge of that court or any judge
4 assigned by the presiding officer of the Judicial Council, upon certifying that the judge is
5 familiar with the record of the trial, may, unless otherwise disqualified, proceed with and
6 finish the trial, but if the assigned judge is satisfied that neither he nor another substitute
7 judge can proceed with the trial, the judge may, in his discretion, grant a new trial.

8 (b) If, by reason of death, sickness, or other disability, the judge before whom a
9 defendant has been tried is unable to perform the duties required of the court after a
10 verdict of guilty, any other judge of that court or any judge assigned by the presiding
11 officer of the Judicial Council may perform those duties.

12 (c)(1)(A) A party to any action or the party's attorney may file a motion to disqualify a
13 judge. The motion shall be accompanied by a certificate that the motion is filed in good
14 faith and shall be supported by an affidavit stating facts sufficient to show bias or
15 prejudice, or conflict of interest.

16 (c)(1)(B) The motion shall be filed after commencement of the action, but not later
17 than 20 days after the last of the following:

18 (c)(1)(B)(i) assignment of the action or hearing to the judge;

19 (c)(1)(B)(ii) appearance of the party or the party's attorney; or

20 (c)(1)(B)(iii) the date on which the moving party learns or with the exercise of
21 reasonable diligence should have learned of the grounds upon which the motion is
22 based.

23 If the last event occurs fewer than 20 days prior to a hearing, the motion shall be
24 filed as soon as practicable.

25 (c)(1)(C) Signing the motion or affidavit constitutes a certificate under Rule 11, Utah
26 Rules of Civil Procedure and subjects the party or attorney to the procedures and
27 sanctions of Rule 11. No party may file more than one motion to disqualify in an action.

28 (c)(2) The judge against whom the motion and affidavit are directed shall, without
29 further hearing, enter an order granting the motion or certifying the motion and affidavit
30 to a reviewing judge. [The judge shall take no further action in the case until the motion
31 is decided.](#) If the judge grants the motion, the order shall direct the presiding judge of

32 the court or, if the court has no presiding judge, the presiding officer of the Judicial
33 Council to assign another judge to the action or hearing. Assignment in justice court
34 cases shall be in accordance with Utah Code Ann. §78-5-138. The presiding judge of
35 the court, any judge of the district, any judge of a court of like jurisdiction, or the
36 presiding officer of the Judicial Council may serve as the reviewing judge.

37 (c)(3)(A) If the reviewing judge finds that the motion and affidavit are timely filed,
38 filed in good faith and legally sufficient, the reviewing judge shall assign another judge
39 to the action or hearing or request the presiding judge or the presiding officer of the
40 Judicial Council to do so. Assignment in justice court cases shall be in accordance with
41 Utah Code Ann. §78-5-138.

42 (c)(3)(B) In determining issues of fact or of law, the reviewing judge may consider
43 any part of the record of the action and may request of the judge who is the subject of
44 the motion and affidavit an affidavit responsive to questions posed by the reviewing
45 judge.

46 (c)(3)(C) The reviewing judge may deny a motion not filed in a timely manner.

47 ~~(d)(i)-(d)(1)~~ If the prosecution or a defendant in a criminal action believes that a fair
48 and impartial trial cannot be had in the jurisdiction where the action is pending, either
49 may, by motion, supported by an affidavit setting forth facts, ask to have the trial of the
50 case transferred to another jurisdiction.

51 ~~(ii)-(d)(2)~~ If the court is satisfied that the representations made in the affidavit are
52 true and justify transfer of the case, the court shall enter an order for the removal of the
53 case to the court of another jurisdiction free from the objection and all records pertaining
54 to the case shall be transferred forthwith to the court in the other county. If the court is
55 not satisfied that the representations so made justify transfer of the case, the court shall
56 either enter an order denying the transfer or order a formal hearing in court to resolve
57 the matter and receive further evidence with respect to the alleged prejudice.

58 (e) When a change of judge or place of trial is ordered all documents of record
59 concerning the case shall be transferred without delay to the judge who shall hear the
60 case.

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