

1 **Rule 40. Attorney's or party's certificate signature; representations to the court; sanctions and**
2 **discipline.**

3 (a) ~~Attorney's or party's certificate signature. Every motion, brief, and other paper of a party~~
4 ~~represented by an attorney shall document must be signed by at least one attorney of record who is an~~
5 ~~active member in good standing of the Bar of this state or by a party who is self-represented. The~~
6 ~~attorney shall sign his or her individual name and give his or her business address, telephone number,~~
7 ~~and Utah State Bar number. A party who is not represented by an attorney shall sign any motion, brief, or~~
8 ~~other paper and state the party's address and telephone number. Except when otherwise specifically~~
9 ~~provided by rule or statute, motions, briefs, or other papers need not be verified or accompanied by~~
10 ~~affidavit. The signature of an attorney or party constitutes a certificate that the attorney or party has read~~
11 ~~the motion, brief, or other paper; that to the best of his or her knowledge, information, and belief, formed~~
12 ~~after reasonable inquiry, it is not frivolous or interposed for the purpose of delay as defined in Rule 33. If a~~
13 ~~motion, brief, or other paper is not signed as required by this rule, it shall be stricken unless it is signed~~
14 ~~promptly after the omission is called to the attention of the attorney or party. If a motion, brief, or other~~
15 ~~paper is signed in violation of this rule, the authority and the procedures of the court provided by Rule 33~~
16 ~~shall apply. A person may sign a document using any form of signature recognized by law as binding.~~

17 (b) Representations to court. The signature of an attorney or self-represented party certifies that to
18 the best of the person's knowledge formed after an inquiry reasonable under the circumstances:

19 (b)(1) the filing is not being presented for any improper purpose, such as to harass or to cause
20 unnecessary delay or needless increase in the cost of litigation;

21 (b)(2) the legal contentions are warranted by existing law or by a nonfrivolous argument for the
22 extension, modification, or reversal of existing law or the establishment of new law;

23 (b)(3) the factual contentions are supported by the record on appeal; and

24 (b)(4)(A) the filing contains no information or records classified as private, controlled, protected,
25 safeguarded, sealed, juvenile court legal, or juvenile court social or any other information or records
26 to which the right of public access is restricted by statute, rule, order, or caselaw; or

27 (b)(4)(B) a filing required by Rule 21(g) that does not contain information or records classified as
28 private, controlled, protected, safeguarded, sealed, juvenile court legal, or juvenile court social or any
29 other information or records to which the right of public access is restricted by statute, rule, order, or
30 caselaw is being filed simultaneously.

31 ~~(b)(c)~~ Sanctions and discipline of attorneys and parties. The court may, after reasonable notice and
32 an opportunity to show cause to the contrary, and upon hearing, if requested, take appropriate action
33 against any attorney or person who practices before it for inadequate representation of a client, conduct
34 unbecoming a member of the Bar or a person allowed to appear before the court, or for failure to comply
35 with these rules or order of the court. Any action to suspend or disbar a member of the Utah State Bar
36 shall be referred to the Office of Professional Conduct of the Utah State Bar.

37 ~~(c)-(d)~~ Rule does not affect contempt power. This rule ~~shall not be construed to~~ does not limit or
38 impair the court's inherent and statutory contempt powers.

39 ~~(d)-(e)~~ Appearance of counsel pro hac vice. An attorney who is licensed to practice before the bar of
40 another state or a foreign country but who is not a member of the Bar of this state, may appear, pro hac
41 vice upon motion, filed pursuant to ~~the Code of Judicial Administration~~ Rule 14-806 of the Rules
42 Governing the Utah State Bar. A separate motion is not required in the appellate court if the attorney has
43 previously been admitted pro hac vice in the ~~lower tribunal~~ trial court or agency, but the attorney shall file
44 in the appellate court a notice of appearance pro hac vice to that effect.

45 **Advisory Committee Notes**

46 ~~Refer to Rule 14-806 of the Rules Governing the Utah State Bar for qualification of out of state~~
47 ~~counsel to practice before the courts of Utah.~~

48 Records are classified as public, private, controlled, protected, safeguarded, sealed, juvenile court
49 legal, or juvenile court social by Code of Judicial Administration Rule 4-202.02. The right of public access
50 might also be restricted by Title 63G, Chapter 2, Government Records Access and Management Act, by
51 other statutes, rules, or caselaw, or by court order. If a filing contains information or records that are not
52 public, Rule 21(g) requires the filer to file an unredacted version for the court and a version for the public
53 that does not contain the confidential information.