

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 has begun
3 is unable to continue with the trial, any other judge of that court or any judge assigned by the
4 presiding officer of the Judicial Council, upon certifying that the judge is familiar with the record
5 of the trial, may, unless otherwise disqualified, proceed with and finish the trial, but if the
6 assigned judge is satisfied that neither he nor another substitute judge can proceed with the trial,
7 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 defendant has
9 been tried is unable to perform the duties required of the court after a verdict of guilty, any other
10 judge of that court or any judge assigned by the presiding officer of the Judicial Council may
11 perform those duties.

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

16 (c)(1)(B) The motion shall be filed after commencement of the action, but not later than 21 days
17 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 reasonable
21 diligence should have learned of the grounds upon which the motion is based.

22 If the last event occurs fewer than 21 days prior to a hearing, the motion shall be filed as soon as
23 practicable.

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

27 (c)(1)(D) The other parties to the action may not file an opposition to the motion and if any
28 response is filed it will not be considered. The moving party need not file a Request to Submit
29 for Decision under Rule 12. The motion will be submitted for decision upon filing,

30 (c)(2) The judge against whom the motion and affidavit are directed shall, without further
31 hearing, enter an order granting the motion or certifying the motion and affidavit to a reviewing

32 judge. The judge shall take no further action in the case until the motion is decided. If the judge
33 grants the motion, the order shall direct the presiding judge of the court or, if the court has no
34 presiding judge, the presiding officer of the Judicial Council to assign another judge to the action
35 or hearing. Assignment in justice court cases shall be in accordance with Utah Code Ann. §78A-
36 7-208. The presiding judge of the court, any judge of the district, or any judge of a court of like
37 jurisdiction, ~~or the presiding officer of the Judicial Council~~ may serve as the reviewing judge.

38 (c)(3)(A) If the reviewing judge finds that the motion and affidavit are timely filed, filed in good
39 faith and legally sufficient, the reviewing judge shall assign another judge to the action or
40 hearing or request the presiding judge or if the court has no presiding judge, the presiding officer
41 of the Judicial Council to do so. Assignment in justice court cases shall be in accordance with
42 Utah Code Ann. §78A-7-208.

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

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

47 (d)(1) In the courts of record, if a party believes that a fair and impartial trial cannot be had in
48 the court location or in the county where the action is pending, that party may move to have the
49 trial of the case take place with a jury from another county or the case transferred to a court
50 location in a county where a fair trial may be held. Such motion shall be supported by an
51 affidavit setting forth facts.

52 (d)(2) If the court is satisfied that the representations made in the affidavit required by
53 subsection (1) are true and justify a change of jury pool or location, the court shall enter an order
54 transferring the case, or selecting a jury from a county free from the objection. If the court is not
55 satisfied that the representations justify an alternate jury pool or transfer of the case, the court
56 shall either enter an order denying the motion or order a hearing to receive further evidence with
57 respect to the alleged prejudice and resolve the matter.

58 (d)(3) In the justice courts, if a party believes that a fair and impartial trial cannot be had in the
59 court location or in the county where the action is pending, that party may move to have the trial
60 of the case take place with a jury from another county or in a court location where a fair trial may
61 be held. Such motion shall be supported by an affidavit setting forth facts.

62 (d)(4) If the court is satisfied that the representations made in the affidavit required by
63 subsection (3) are true and justify a change of jury pool or location, the court shall enter an order
64 selecting a jury from a county free from the objection; or directing that trial proceedings be held
65 in a court location free from the objection. If the court is not satisfied that the representations
66 justify an alternate jury pool or relocation of the trial, the court shall either enter an order
67 denying the motion or order a hearing to receive further evidence with respect to the alleged
68 prejudice and resolve the matter.

69 (d)(5) A motion filed pursuant to this subsection (d) shall be filed not later than 14 days after the
70 party learns or with the exercise of reasonable diligence should have learned of the grounds upon
71 which the motion is based.

72 (e) When a change of judge or place of trial is ordered all documents of record concerning the
73 case shall, without delay, be transferred or made available in the new location.

Effective May 1, 2017