

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

2 **(a) Disability.**

3 (a)(1) Substitute judge during trial. If, by reason of death, sickness, or other disability, the
4 judge before whom a trial has begun is unable to continue with the trial, any other judge of that
5 court or any judge assigned by the presiding officer of the Judicial Council, upon certifying that
6 the judge is familiar with the record of the trial, may, unless otherwise disqualified, proceed with
7 and finish the trial, but if the assigned judge is satisfied that neither he nor another substitute
8 judge can proceed with the trial, the judge may, in his discretion, grant a new trial.

9 ~~(b)~~(a)(2) Substitute judge after guilty verdict. If, by reason of death, sickness, or other
10 disability, the judge before whom a defendant has been tried is unable to perform the duties
11 required of the court after a verdict of guilty, any other judge of that court or any judge assigned
12 by the presiding officer of the Judicial Council may perform those duties.

13 **(b) Disqualification.**

14 (b)(1) Motion to disqualify.

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

19 ~~(e)~~(b)(1)(B) The motion shall be filed after commencement of the action, but not later than 21
20 days after the last of the following:

21 ~~(e)~~(b)(1)(B)(i) assignment of the action or hearing to the judge;

22 ~~(e)~~(b)(1)(B)(ii) appearance of the party or the party's attorney; or

23 ~~(e)~~(b)(1)(B)(iii) the date on which the moving party learns or with the exercise of
24 reasonable diligence should have learned of the grounds upon which the motion is based.

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

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

30 ~~(e)~~(b)(1)(D) The other parties to the action may not file an opposition to the motion and if any
31 response is filed it will not be considered. The moving party need not file a Request to Submit
32 for Decision under Rule 12. The motion will be submitted for decision upon filing.

33 **(b)(2) Reviewing judge; reassignment.**

34 (b)(2)(A) The judge against whom the motion and affidavit are directed shall, without further
35 hearing, enter an order granting the motion or certifying the motion and affidavit to a reviewing
36 judge. The judge shall take no further action in the case until the motion is decided. If the judge
37 grants the motion, the order shall direct the presiding judge of the court ~~or, if the court has no~~
38 ~~presiding judge, the presiding officer of the Judicial Council~~ to assign another judge to the action
39 or hearing. Assignment in justice court cases shall ~~will~~ be in accordance with Utah Code of
40 Judicial Administration Rule 9-109. ~~Utah Code §78A-7-208.~~ The presiding judge of the court,
41 any judge of the district, or any judge of a court of like jurisdiction, may serve as the reviewing
42 judge.

43 ~~(e)(32)(A)~~ If the reviewing judge finds that the motion and affidavit are timely filed, filed in
44 good faith and legally sufficient, the reviewing judge shall assign another judge to the action or
45 hearing or request the presiding judge ~~or if the court has no presiding judge, the presiding~~
46 ~~officer of the Judicial Council~~ to do so. Assignment in justice court cases will be in accordance
47 with Utah Code of Judicial Administration Rule 9-109. ~~Utah Code §78A-7-208.~~

48 ~~(e)(32)(B)~~ In determining issues of fact or of law, the reviewing judge may consider any
49 part of the record of the action and may request of the judge who is the subject of the motion
50 and affidavit an affidavit responsive to questions posed by the reviewing judge.

51 ~~(e)(32)(C)~~ The reviewing judge may deny a motion not filed in a timely manner.

52 **(c) Change of venue.**

53 ~~(d)(1)~~ Courts of record.

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

59 ~~(d)(21)(B)~~ If the court is satisfied that the representations made in the affidavit required by
60 subsection (c)(1)(A) are true and justify a change of jury pool or location, the court shall enter an
61 order transferring the case, or selecting a jury from a county free from the objection. If the court
62 is not satisfied that the representations justify an alternate jury pool or transfer of the case, the
63 court shall either enter an order denying the motion or order a hearing to receive further
64 evidence with respect to the alleged prejudice and resolve the matter.

65 ~~(d)(32)~~ Justice courts.

66 (c)(2)(A) In the justice courts, if a party believes that a fair and impartial trial cannot be had
67 in the court location or in the county where the action is pending, that party may move to have

68 the trial of the case take place with a jury from another county or in a court location where a fair
69 trial may be held. Such motion shall be supported by an affidavit setting forth facts.

70 ~~(dc)(42)(B)~~ If the court is satisfied that the representations made in the affidavit required by
71 subsection ~~(c)(2)(A)(3)~~ are true and justify a change of jury pool or location, the court shall enter
72 an order selecting a jury from a county free from the objection; or directing that trial proceedings
73 be held in a court location free from the objection. If the court is not satisfied that the
74 representations justify an alternate jury pool or relocation of the trial, the court shall either enter
75 an order denying the motion or order a hearing to receive further evidence with respect to the
76 alleged prejudice and resolve the matter.

77 ~~(dc)(53)~~ Timing. A motion filed pursuant to this subsection ~~(dc)~~ shall be filed not later than
78 14 days after the party learns or with the exercise of reasonable diligence should have learned
79 of the grounds upon which the motion is based.

80 **(ed) Documents of record.** When a change of judge or place of trial is ordered all
81 documents of record concerning the case shall, without delay, be transferred or made available
82 in the new location.