

1 **Rule 5. Service and filing of pleadings and other papers.**

2 **(a) When service is required.**

3 **(1) Papers that must be served.** Except as otherwise provided in these rules or as  
4 otherwise directed by the court, the following papers must be served on every  
5 party:

6 (A) a judgment;

7 (B) an order that states it must be served;

8 (C) a pleading after the original complaint;

9 (D) a paper relating to disclosure or discovery;

10 (E) a paper filed with the court other than a motion that may be heard ex  
11 parte; and

12 (F) a written notice, appearance, demand, offer of judgment, or similar  
13 paper.

14 **(2) Serving parties in default.** No service is required on a party who is in default  
15 except that:

16 (A) a party in default must be served as ordered by the court;

17 (B) a party in default for any reason other than for failure to appear must  
18 be served as provided in paragraph (a)(1);

19 (C) a party in default for any reason must be served with notice of any  
20 hearing to determine the amount of damages to be entered against the  
21 defaulting party;

22 (D) a party in default for any reason must be served with notice of entry of  
23 judgment under Rule 58A(~~dg~~); and

24 (E) a party in default for any reason must be served under Rule 4 with  
25 pleadings asserting new or additional claims for relief against the party.

26           **(3) Service in actions begun by seizing property.** If an action is begun by seizing  
27           property and no person is or need be named as defendant, any service required  
28           before the filing of an answer, claim or appearance must be made upon the  
29           person who had custody or possession of the property when it was seized.

30   **(b) How service is made.**

31           **(1) Whom to serve.** If a party is represented by an attorney, a paper served under  
32           this rule must be served upon the attorney unless the court orders service upon  
33           the party. Service must be made upon the attorney and the party if:

34                   (A) an attorney has filed a Notice of Limited Appearance  
35                   under Rule [75](#) and the papers being served relate to a matter within the  
36                   scope of the Notice; or

37                   (B) a final judgment has been entered in the action and more than 90 days  
38                   has elapsed from the date a paper was last served on the attorney.

39           **(2) When to serve.** If a hearing is scheduled 7 days or less from the date of  
40           service, a party must serve a paper related to the hearing by the method most  
41           likely to be promptly received. Otherwise, a paper that is filed with the court  
42           must be served before or on the same day that it is filed.

43           **(3) Methods of service.** A paper is served under this rule by:

44                   (A) except in the juvenile court, submitting it for electronic filing, or the  
45                   court submitting it to the electronic filing service provider, if the person  
46                   being served has an electronic filing account;

47                   (B) emailing it to

48                           (i) the most recent email address provided by the person to the  
49                           court under [Rule 10\(a\)\(3\)](#) or [Rule 76](#), or

50                           (ii) to the email address on file with the Utah State Bar;

51                   (C) mailing it to the person's last known address;

- 52 (D) handing it to the person;
- 53 (E) leaving it at the person's office with a person in charge or, if no one is
- 54 in charge, leaving it in a receptacle intended for receiving deliveries or in a
- 55 conspicuous place;
- 56 (F) leaving it at the person's dwelling house or usual place of abode with a
- 57 person of suitable age and discretion who resides there; or
- 58 (G) any other method agreed to in writing by the parties.

59 **(4) When service is effective.** Service by mail or electronic means is complete

60 upon sending.

61 **(5) Who serves.** Unless otherwise directed by the court or these rules:

62 (A) every paper required to be served must be served by the party

63 preparing it; and

64 (B) every paper prepared by the court will be served by the court.

65 **(c) Serving numerous defendants.** If an action involves an unusually large number of

66 defendants, the court, upon motion or its own initiative, may order that:

67 (1) a defendant's pleadings and replies to them do not need to be served on the

68 other defendants;

69 (2) any cross-claim, counterclaim avoidance or affirmative defense in a

70 defendant's pleadings and replies to them are deemed denied or avoided by all

71 other parties;

72 (3) filing a defendant's pleadings and serving them on the plaintiff constitutes

73 notice of them to all other parties; and

74 (4) a copy of the order must be served upon the parties.

75 **(d) Certificate of service.** A paper required by this rule to be served, including

76 electronically filed papers, must include a signed certificate of service showing the

77 name of the document served, the date and manner of service and on whom it was  
78 served. Except in the juvenile court, this paragraph does not apply to papers required to  
79 be served under paragraph (b)(5)(B) when service to all parties is made under  
80 paragraph (b)(3)(A).

81 **(e) Filing.** Except as provided in Rule [7\(j\)](#) and Rule [26\(f\)](#), all papers after the complaint  
82 that are required to be served must be filed with the court. Parties with an electronic  
83 filing account must file a paper electronically. A party without an electronic filing  
84 account may file a paper by delivering it to the clerk of the court or to a judge of the  
85 court. Filing is complete upon the earliest of acceptance by the electronic filing system,  
86 the clerk of court or the judge.

87 **(f) Filing an affidavit or declaration.** If a person files an affidavit or declaration, the  
88 filer may:

- 89 (1) electronically file the original affidavit with a notary acknowledgment as  
90 provided by Utah Code Section [46-1-16\(7\)](#);
- 91 (2) electronically file a scanned image of the affidavit or declaration;
- 92 (3) electronically file the affidavit or declaration with a conformed signature; or
- 93 (4) if the filer does not have an electronic filing account, present the original  
94 affidavit or declaration to the clerk of the court, and the clerk will electronically  
95 file a scanned image and return the original to the filer.

96 The filer must keep an original affidavit or declaration of anyone other than the filer  
97 safe and available for inspection upon request until the action is concluded, including  
98 any appeal or until the time in which to appeal has expired.

99

#### 100 **Advisory Committee Notes**

101 ~~Rule 5(d) is amended to give the trial court the option, either on an ad hoc basis or by~~  
102 ~~local rule, of ordering that discovery papers, depositions, written interrogatories,~~

103 ~~document requests, requests for admission, and answers and responses need not be~~  
104 ~~filed unless required for specific use in the case. The committee is of the view that a~~  
105 ~~local rule of the district courts on the subject should be encouraged.~~

106 ~~The 1999 amendment to subdivision (b)(1)(B) does not authorize the court to conduct a~~  
107 ~~hearing with less than 5 days notice, but rather specifies the manner of service of the~~  
108 ~~notice when the court otherwise has that authority.~~

109 ~~2001 amendments~~

110 ~~Paragraph (b)(1)(A) has been changed to allow service by means other than U.S. Mail~~  
111 ~~and hand delivery if consented to in writing by the person to be served, i.e. the attorney~~  
112 ~~of the party. Electronic means include facsimile transmission, e-mail and other possible~~  
113 ~~electronic means.~~

114 ~~While it is not necessary to file the written consent with the court, it would be advisable~~  
115 ~~to have the consent in the form of a stipulation suitable for filing and to file it with the~~  
116 ~~court.~~

117 ~~Paragraph (b)(1)(B) establishes when service by electronic means, if consented to in~~  
118 ~~writing, is complete. The term "normal business hours" is intended to mean 8:00 a.m. to~~  
119 ~~5:00 p.m. Monday through Friday, excluding legal holidays. If a fax or e-mail is received~~  
120 ~~after 5:00 p.m., the service is deemed complete on the next business day.~~

121 ~~2015 amendments~~

122 ~~Since the Rules of Juvenile Procedure do not have a rule on serving papers, this rule~~  
123 ~~applies in juvenile court proceedings under Rule 1, Rule 81(a) and Rule of Juvenile~~  
124 ~~Procedure 2.~~

125 Note adopted 2015

126 Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the  
127 document on lawyers who have an e-filing account. (Lawyers representing parties in  
128 the district court are required to have an account and electronically file documents.

129 Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this  
130 provision documents electronically filed in juvenile court.

131 Although electronic filing in the juvenile court presents to the parties the documents  
132 that have been filed, the juvenile court e-filing application (CARE), unlike that in the  
133 district court, does not deliver an email alerting the party to that fact. The Board of  
134 Juvenile Court Judges and the Advisory Committee on the Rules of Juvenile Procedure  
135 believe this difference renders electronic filing alone insufficient notice of a document  
136 having been filed. So in the juvenile court, a party electronically filing a document must  
137 serve that document by one of the other permitted methods.