

1       **Rule 63. Disability or disqualification of a judge.**

2       **(a) Substitute judge; Prior testimony.** If the judge to whom an action has been assigned is unable  
3 to perform his or her duties, then any other judge of that district or any judge assigned pursuant to  
4 Judicial Council rule is authorized to perform those duties. The judge to whom the case is reassigned  
5 may rehear the evidence or some part of it.

6       **(b) Motion to disqualify; affidavit or declaration.**

7           (b)(1) A party to an action or the party's attorney may file a motion to disqualify a judge. The  
8 motion must be accompanied by a certificate that the motion is filed in good faith and must be  
9 supported by an affidavit or declaration under penalty of Utah Code Section [78B-5-705](#) stating facts  
10 sufficient to show bias, prejudice or conflict of interest. The motion must also be accompanied by a  
11 request to submit for decision.

12           (b)(2) The motion must be filed after commencement of the action, but not later than 21 days  
13 after the last of the following:

14                   (b)(2)(A) assignment of the action or hearing to the judge;

15                   (b)(2)(B) appearance of the party or the party's attorney; or

16                   (b)(2)(C) the date on which the moving party knew or should have known of the grounds  
17 upon which the motion is based.

18 If the last event occurs fewer than 21 days before a hearing, the motion must be filed as soon as  
19 practicable.

20           (b)(3) Signing the motion or affidavit or declaration constitutes a certificate under Rule [11](#) and  
21 subjects the party or attorney to the procedures and sanctions of Rule [11](#).

22           (b)(4) No party may file more than one motion to disqualify in an action, unless the second or  
23 subsequent motion is based on grounds that the party did not know of and could not have known of at  
24 the time of the earlier motion.

25           (b)(5) If timeliness of the motion is determined under paragraph (b)(2)(C) or paragraph (b)(4), the  
26 affidavit or declaration supporting the motion must state when and how the party came to know of the  
27 reason for disqualification.

28       **(c) Reviewing judge.**

29           (c)(1) The judge who is the subject of the motion must, without further hearing or a response from  
30 another party, enter an order granting the motion or certifying the motion and affidavit or declaration  
31 to a reviewing judge. The judge must take no further action in the case until the motion is decided. If  
32 the judge grants the motion, the order will direct the presiding judge of the court ~~or, if the court has no~~  
33 ~~presiding judge, the presiding officer of the Judicial Council~~ to assign another judge to the action or  
34 hearing. Assignment in justice court cases will be in accordance with Utah Code of Judicial  
35 Administration Rule 9-109. The presiding judge of the court, any judge of the district, or any judge of a  
36 court of like jurisdiction, or the presiding officer of the Judicial Council may serve as the reviewing  
37 judge.

38           (c)(2) If the reviewing judge finds that the motion and affidavit or declaration are timely filed, filed  
39 in good faith and legally sufficient, the reviewing judge shall assign another judge to the action or  
40 hearing or request the presiding judge ~~or the presiding officer of the Judicial Council~~ to do so.  
41 Assignment in justice court cases will be in accordance with Utah Code of Judicial Administration  
42 Rule 9-109.

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

46 (c)(4) The reviewing judge may deny a motion not filed in a timely manner.

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