

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

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

23           ~~(e)~~(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)~~(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)~~(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 | ~~(d)~~(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 | ~~(d)~~(53) Timing. A motion filed pursuant to this subsection ~~(d)~~ 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.