

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 party:

5 (A) a judgment;

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

7 (C) a pleading after the original complaint;

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

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

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

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

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

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

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

19 (D) a party in default for any reason must be served with notice of entry of
20 judgment under Rule [58A\(g\)](#); and

21 (E) a party in default for any reason must be served under Rule [4](#) with pleadings
22 asserting new or additional claims for relief against the party.

23 **(3) Service in actions begun by seizing property.** If an action is begun by seizing
24 property and no person is or need be named as defendant, any service required

25 before the filing of an answer, claim or appearance must be made upon the person
26 who had custody or possession of the property when it was seized.

27 **(b) How service is made.**

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

31 (A) an attorney has filed a Notice of Limited Appearance under Rule 75 and the
32 papers being served relate to a matter within the scope of the Notice; or

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

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

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

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

43 (B) for papers not electronically served under paragraph (b)(3)(A), emailing it
44 them to

45 (i) the most recent email address provided by the person to the court and other
46 parties under Rule 10(a)(3) or Rule 76, or by other notice, or

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

48 (C) if the person's email address has not been provided to the court and other
49 parties, or if the person required to serve the document does not have the ability
50 to email, a paper may be served under this rule by:

- 51 | (i) mailing it to the ~~person's~~ last known mailing address provided by the
52 | person to the court and other parties under Rule 10(a)(3) or Rule 76;
53 | ~~(D)~~(ii) handing it to the person;
54 | ~~(E)~~(iii) leaving it at the person's office with a person in charge or, if no one is
55 | in charge, leaving it in a receptacle intended for receiving deliveries or in a
56 | conspicuous place;
57 | ~~(F)~~(iv) leaving it at the person's dwelling house or usual place of abode with a
58 | person of suitable age and discretion who resides there; or
59 | ~~(G)~~(v) any other method agreed to in writing by the parties.

60 | **(4) When service is effective.** Service by mail or electronic means is complete upon
61 | sending.

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

63 | (A) every paper required to be served must be served by the party preparing it;
64 | and

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

66 | **(c) Serving numerous defendants.** If an action involves an unusually large number of
67 | defendants, the court, upon motion or its own initiative, may order that:

68 | (1) a defendant's pleadings and replies to them do not need to be served on the other
69 | defendants;

70 | (2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's
71 | pleadings and replies to them are deemed denied or avoided by all other parties;

72 | (3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice
73 | 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 affidavit
94 or declaration to the clerk of the court, and the clerk will electronically file a scanned
95 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 *Note adopted 2015*

102 Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the
103 document on lawyers who have an e-filing account. (Lawyers representing parties in
104 the district court are required to have an account and electronically file documents.
105 Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this
106 provision documents electronically filed in juvenile court.

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

114