

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\(g\)](#); 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.** No certificate of service is required when a paper is served by
76 filing it with the court's electronic-filing system under paragraph (b)(3)(A). When a
77 paper that is required to be served is served by other means:

78 (1) if the paper is filed, a certificate of service showing the date and manner of
79 service must be filed with it or within a reasonable time after service; and

80 (2) if the paper is not filed, a certificate of service need not be filed unless filing is
81 required by rule or court order.

82 ~~A paper required by this rule to be served, including electronically filed papers, must~~
83 ~~include a signed certificate of service showing the name of the document served, the~~
84 ~~date and manner of service and on whom it was served. Except in the juvenile court,~~
85 ~~this paragraph does not apply to papers required to be served under paragraph~~
86 ~~(b)(5)(B) when service to all parties is made under paragraph (b)(3)(A).~~

87 **(e) Filing.** Except as provided in Rule 7(j) and Rule 26(f), all papers after the complaint
88 that are required to be served must be filed with the court. Parties with an electronic
89 filing account must file a paper electronically. A party without an electronic filing
90 account may file a paper by delivering it to the clerk of the court or to a judge of the
91 court. Filing is complete upon the earliest of acceptance by the electronic filing system,
92 the clerk of court or the judge.

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

95 (1) electronically file the original affidavit with a notary acknowledgment as
96 provided by Utah Code Section 46-1-16(7);

97 (2) electronically file a scanned image of the affidavit or declaration;

98 (3) electronically file the affidavit or declaration with a conformed signature; or

99 (4) if the filer does not have an electronic filing account, present the original
100 affidavit or declaration to the clerk of the court, and the clerk will electronically
101 file a scanned image and return the original to the filer.

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

105

106 **Advisory Committee Notes**

107 *Note adopted 2015*

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

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

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121 Effective January 1, 2021

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