

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

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

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

5 | (a)(1)(A) a judgment;

6 | (a)(1)(B) an order that states it must be served;

7 | (a)(1)(C) a pleading after the original complaint;

8 | (a)(1)(D) a paper relating to disclosure or discovery;

9 | (a)(1)(E) a paper filed with the court other than a motion that may be heard ex parte; and

10 | (a)(1)(F) a written notice, appearance, demand, offer of judgment, or similar paper.

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

12 | (a)(2)(A) a party in default must be served as ordered by the court;

13 | (a)(2)(B) a party in default for any reason other than for failure to appear must be served as
14 | provided in paragraph (a)(1);

15 | (a)(2)(C) a party in default for any reason must be served with notice of any hearing to
16 | determine the amount of damages to be entered against the defaulting party;

17 | (a)(2)(D) a party in default for any reason must be served with notice of entry of judgment
18 | under Rule [58A\(d\)](#); and

19 | (a)(2)(E) a party in default for any reason must be served under Rule [4](#) with pleadings
20 | asserting new or additional claims for relief against the party.

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

25 | **(b) How service is made.**

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

29 | (b)(1)(A) an attorney has filed a Notice of Limited Appearance under Rule [75](#) and the papers
30 | being served relate to a matter within the scope of the Notice; or

31 | (b)(1)(B) a final judgment has been entered in the action and more than 90 days has elapsed
32 | from the date a paper was last served on the attorney.

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

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

37 (b)(3)(A) except in the juvenile court, submitting it for electronic filing if the person being
38 served has an electronic filing account;

39 (b)(3)(B) emailing it to the email address provided by the person or to the email address on
40 file with the Utah State Bar, if the person has agreed to accept service by email or has an
41 electronic filing account;

42 (b)(3)(C) mailing it to the person's last known address;

43 (b)(3)(D) handing it to the person;

44 (b)(3)(E) leaving it at the person's office with a person in charge or, if no one is in charge,
45 leaving it in a receptacle intended for receiving deliveries or in a conspicuous place;

46 (b)(3)(F) leaving it at the person's dwelling house or usual place of abode with a person of
47 suitable age and discretion who resides there; or

48 (b)(3)(G) any other method agreed to in writing by the parties.

49 **(b)(4) When service is effective.** Service by mail or electronic means is complete upon sending.

50 **(b)(5) Who serves.** Unless otherwise directed by the court:

51 (b)(5)(A) every paper required to be served must be served by the party preparing it; and

52 (b)(5)(B) an order or judgment prepared by the court will be served by the court.

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

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

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

58 (c)(3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice of them to all
59 other parties; and

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

61 **(d) Certificate of service.** A paper required by this rule to be served, including electronically filed
62 papers, must include a signed certificate of service showing the name of the document served, the date
63 and manner of service and on whom it was served.

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

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

70 (f)(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah
71 Code Section [46-1-16\(7\)](#);

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

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

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

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

80 **(g) Filing by inmate.** Papers filed by an inmate confined in an institution are timely filed if they are
81 deposited in the institution's internal mail system on or before the last day for filing. Timely filing may be
82 shown by a notarized statement or written declaration setting forth the date of deposit and stating that
83 first-class postage has been prepaid. Response time will be calculated from the date the papers are
84 received by the court.

85 **Advisory Committee Notes**

86