

SJR005S02 compared with SJR005

~~{Omitted text}~~ shows text that was in SJR005 but was omitted in SJR005S02

inserted text shows text that was not in SJR005 but was inserted into SJR005S02

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Joint Resolution Amending the Utah Rules of Civil Procedure ~~{Regarding Business and Chancery Court}~~

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor:

LONG TITLE

General Description:

This resolution amends the Utah Rules of Civil Procedure ~~{regarding the Business and Chancery Court}~~ .

Highlighted Provisions:

This resolution:

- ▶ amends Utah Rules of Civil Procedure, Rule 1, to add a definition;
- ▶ amends ~~{Rule 42 of the}~~ Utah Rules of Civil Procedure , Rule 42, to address the transfer of an action ~~{to the Business and Chancery Court; and}~~ ;
- ▶ amends Utah Rules of Civil Procedure, Rule 63, to address the disqualification of a judge on a three-judge panel in the district court;
- ▶ amends Utah Rules of Civil Procedure, Rule 63A, to address the change of judge as a matter of right with regard to a three-judge panel in the district court;
- ▶ makes technical and conforming changes~~{:}~~ ; and
- ▶

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includes a coordination clause to ensure that the changes for Rule 42 in this resolution merge with the changes for Rule 42 in S.J.R. 6, Joint Resolution Amending Court Rules Regarding Medical Malpractice.

Money Appropriated in this Bill:

None

Other Special Clauses:

This resolution provides a special effective date.

This resolution provides a coordination clause.

This resolution provides revisor instructions.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 1 , Utah Rules of Civil Procedure

Rule 42 , Utah Rules of Civil Procedure

Rule 63 , Utah Rules of Civil Procedure

Rule 63A , Utah Rules of Civil Procedure

Utah Code Sections affected by Coordination Clause:

Rule 42 , as Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. **Rule 1**, Utah Rules of Civil Procedure is amended to read:

Rule 1. General provisions; definition.

(a) Scope of rules. These rules govern the procedure in the courts of the state of Utah in all actions of a civil nature, whether cognizable at law or in equity, and in all statutory proceedings, except as governed by other rules promulgated by this court or statutes enacted by the Legislature, and except as stated in Rule 81. They must be liberally construed and applied to achieve the just, speedy, and inexpensive determination of every action. These rules govern all actions brought after they take effect and all further proceedings in actions then

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pending. If, in the opinion of the court, applying a rule in an action pending when the rule takes effect would not be feasible or would be unjust, the former procedure applies.

(b) Definition. As used in these rules, "district court panel" means a panel of three district court judges that is convened to hear and decide an action.

Section 2. **Rule 42**, Utah Rules of Civil Procedure is amended to read:

Rule 42. {~~Consolidation; separate trials; venue transfer.~~}

(1) When actions involving a common question of law or fact or arising from the same transaction or occurrence are pending before the court in one or more judicial districts, the court may, on motion of any party or on the court's own initiative:

(A) order that the actions are consolidated in whole or in part for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(B) stay any or all of the proceedings in any action subject to the order;

(C) transfer any or all further proceedings in the actions to a location in which any transferee court; and

(D) make other such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

[(1)](2) In determining whether to order consolidation and the appropriate location for the consolidated proceedings, the court may consider, among other factors:

(A) the complexity of the actions;

{ ~~(B) the importance of any common question of fact or law to the determination~~ }

(B) of

the actions;

(C) the risk of duplicative or inconsistent rulings, orders, or judgments;

{ ~~(D) case and records classification of each case as described in Rule 4-202.02~~

~~(E) the risk that consolidation may unreasonably delay the progress, increase }~~

(D) relative procedural postures of the actions;

of the Utah Code of Judicial Administration;

(E) expense, or complicate the processing of any action;

(F) the risk that consolidation may unreasonably delay the progress, increase the expense, or complicate the processing of any action;

(G) prejudice to any party that far outweighs the overall benefits of consolidation;

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consolidation;

(H) efficient utilization of judicial resources and the facilities and personnel

~~{the of and and~~

~~(H) convenience of the parties, witnesses, and counsel; and }~~

(I) the efficient utilization of judicial resources and the facilities and personnel of

the court.

~~{(2)(3)}~~ (2)(3) A motion to consolidate may be filed or opposed by any party to either action

to

be consolidated, without seeking permission to intervene. The motion must be filed in and heard by the judge assigned to the first action filed and must be served on all parties in each parties in each action pursuant to Rule 5. A notice of the motion must be filed in each action. action pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the order denying or granting the motion.

~~{(3)(4)}~~ (3)(4) If the court orders consolidation, the consolidated case will be heard by the judge assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed upon by the originally assigned judges. The court will order that a single case number be used for all subsequent filings in the consolidated case.

expenses, if any, of consolidation. The presiding judge of the transferee court may assign the consolidated case to another judge for good cause.

For convenience or to avoid prejudice ,

the court may:

(1) order that the consolidated matters be tried together or that a separate trial be held on any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

(2) order that the consolidated matters be severed at any point and provide that the matters be treated as separate actions going forward, including that the severed matters be tried by either the judge in the consolidated matter or the originally assigned judge.

If the consolidation of actions would be otherwise appropriate but is not administratively possible, the judge assigned to the first action may order the court clerk to reassign the other actions to the judge assigned to the first action. Such actions will be treated for all purposes as if they were consolidated except that the actions will retain their separate case numbers, which must be included on all filings.

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(A) On timely motion of any party, where transfer to a proper venue is available, the court must transfer any action filed in an improper venue.

~~{f(2)}(B)~~ (2) (B) The court must give substantial deference to a plaintiff's choice of a proper venue.

(C) On timely motion of any party, a court may:

(i) transfer venue of any action, in whole or in part, to any other venue for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(ii) stay any or all of the proceedings in the action; and

(iii) make other such orders concerning proceedings therein to pursue the

interests of justice and avoid unnecessary costs or delay. ~~{In }~~ In determining whether to transfer

venue and the appropriate venue for the transferred proceedings, the court may consider, among other factors, whether transfer will: increase the likelihood of a fair and impartial determination in the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice otherwise caused by venue requirements; and advance the interests of justice.

(3) The court may direct that specified parties pay the expenses, if any, of transfer.}

(A) If a plaintiff filed the complaint in the district court and the action meets the jurisdictional requirements of the business and chancery court, a party may file a separate notice requesting transfer of the action to the business and chancery court.

(B) If a party makes a request to transfer an action to the business and chancery court within 21 days after the appearance of the party:

(i) the district court must transfer the action to the business and chancery court

unless the district court determines that the transfer will prejudice the interests of justice; and

(ii) the district court may not give any deference to the plaintiff's choice to file the complaint in the district court.

(C) If a party makes a request to transfer an action to the business and chancery court more than 21 days after the appearance of the party, the district court may:

(i) give deference to the plaintiff's choice to file the complaint in the district court;

or

(ii) transfer the action to the business and chancery court if the factors described in

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paragraph (d)(3) weigh in favor of transfer.

(D) A district court may not transfer the action to the business and chancery court under this rule if the action does not meet the jurisdictional requirements of the business and chancery court.

On a motion under paragraph

(d)(1) or (2), a court may consider, among other factors, whether the transfer will:

(A) increase the likelihood of a fair and impartial determination in the action;

(B) minimize expense or inconvenience to parties, witnesses, or the court;

(C) decrease delay;

(D) avoid hardship or injustice otherwise caused by:

(i) the venue requirements if the court is determining whether to transfer the action to the appropriate venue under paragraph (d)(1); or

(ii) keeping the action in the district court if the court is determining whether to transfer the action to the business and chancery court under paragraph (d)(2); and

(E) advance the interests of justice.

The court may direct that specified parties pay the expenses, if any, of a transfer of an action to the appropriate venue or to the business and chancery court.

(1) The Attorney General, the Governor, or the Legislature may file a notice to convene a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the district court if the notice to convene is filed within 45 days after:

(A) the day on which the action is commenced;

(B) the day on which the amended complaint is filed if the complaint is amended in the action; or

(C) the effective date of this resolution if the action is pending in the district court on the effective date of this resolution.

(2) If the Attorney General, the Governor, or the Legislature files a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed must:

(A) notify the presiding officer of the Judicial Council that the action must be transferred to a district court panel; and

(B) transfer the action to the district court panel convened to hear and decide the

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action.

(3) Upon the filing of a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed may not sever any matter from the action or take any further action.

170 Section 3. **Rule 63**, Utah Rules of Civil Procedure is amended to read:

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

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

(b) Motion to disqualify; affidavit or declaration.

~~[(b)]~~(1) A party to an action or the party's attorney may file a motion to disqualify a judge.

~~[(2)]~~ The motion must be accompanied by a certificate that the motion is filed in good faith and must be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice or conflict of interest. The motion must also be accompanied by a request to submit for decision.

~~[(b)(2)]~~ (3) The motion must be filed after commencement of the action, but not later than 21 days after the last of the following:

~~[(b)(2)]~~(A) assignment of the action or hearing to the judge;

~~[(b)(2)]~~(B) appearance of the party or the party's attorney; or

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

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

~~[(b)(3)]~~ (4) Signing the motion or affidavit or declaration constitutes a certificate under Rule 11 and subjects the party or attorney to the procedures and sanctions of Rule 11.

~~[(b)(4)]~~ (5) No party may file more than one motion to disqualify in an action, unless the second or subsequent motion is based on grounds that the party did not know of and could not have known of at the time of the earlier motion.

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~~[(b)(5)]~~ (6) If timeliness of the motion is determined under paragraph ~~[(b)(2)(C)]~~ (b)(3)(C) or paragraph ~~[(b)(4)]~~ (b)(5), the affidavit or declaration supporting the motion must state when and how the party came to know of the reason for disqualification.

(c) Reviewing judge.

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

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

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

~~[(e)]~~(4) The reviewing judge may deny a motion not filed in a timely manner.

(d) Disqualification of a judge on a district court panel.

(1) A party may file a motion to disqualify a judge on a district court panel but may not file a motion to disqualify a district court panel.

(2) The presiding officer of the Judicial Council is the reviewing judge for any motion to disqualify a judge on a district court panel.

(3) If a motion to disqualify is granted for a judge on a district court panel:

_____ (A) the action is not reassigned to a new district court panel; and

_____ (B) a new judge must be promptly assigned in accordance with the random selection process in the Utah Code of Judicial Administration for a district court panel.

Effective May 8, 2018 pursuant to CJA Rule 11-105(5)

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Rule 63A. Change of judge as a matter of right.

(a) Change of judge by one side of an action.

[(a)](1) Right to change a judge by one side of an action.

[(a)(1)](A) In a civil action pending in a court in a county with seven or more district court judges, each side is entitled to one change of judge as a matter of right under this paragraph (a).

_____ (B) When a district court panel is convened, each side is entitled to one change of a judge on the district court panel as a matter of right under this paragraph (a).

[(a)(1)(B)] (C) Even if two or more parties on one side of a civil action have adverse or hostile interests, the action, whether single or consolidated, must be treated as only having two sides for purposes of a changing judge under this paragraph (a).

[(a)(1)(C)] (D) A side is not entitled to more than one change of judge under this paragraph (a).

[(a)(1)(D)] (E) Regardless of when a party joins a civil action, a party is not entitled to a change of judge as a matter of right under this paragraph (a) if the notice of a change of judge is untimely under paragraph (a)(2).

[(a)](2) Notice of a change of judge.

[(a)(2)](A) A party seeking a change of judge under this paragraph (a) must file a notice of a change of judge with the clerk of the court.

[(a)(2)](B) If the notice of a change of judge is timely under this paragraph (a)(2), the notice must be granted.

[(a)(2)](C) In filing a notice of a change of judge under this paragraph (a), a party is not required to state any reason for seeking a change of judge, but the party must attest in good faith that the notice is not being filed:

[(a)(2)(C)](i) for the purpose to delay any action or proceeding; or

[(a)(2)(C)](ii) to change the judge on the grounds of race, gender, or religious affiliation.

[(a)(2)](D) The notice must be filed:

[(a)(2)(D)](i) on the side of a plaintiff or petitioner, within seven days after the day on which a judge is first assigned to the action or proceeding; or

[(a)(2)(D)](ii) on the side of a defendant or respondent, within seven days after the

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day on which the defendant or respondent is served the complaint or petition, or at the time of the first filing by the defendant or respondent with the court, whichever occurs first.

_____ (E) For a district court panel, the notice must be filed within seven days after the day on which the parties receive notice of the judges assigned to the district court panel.

~~[(a)(2)(E)]~~ (F) Failure to file a timely notice of a change of judge under this rule precludes a change of judge under this paragraph (a).

~~[(a)]~~(3) **Assignment of action.**

~~[(a)(3)]~~(A) Upon the filing of a notice under this paragraph (a), the judge assigned to the action must take no further action in the case.

~~[(a)(3)]~~(B) ~~[The]~~ Except as provided in paragraph (a)(3)(D), the action must be promptly reassigned to another judge within the county.

~~[(a)(3)]~~(C) If the action is unable to be reassigned to another judge within the county under paragraph (a)(3)(B), the action may be transferred to a court in another county in accordance with Rule 42.

_____ (D) If a notice of a change of judge is filed for a district court panel:

_____ (i) the action is not reassigned to a new district court panel; and

_____ (ii) a new judge must be promptly assigned in accordance with the random selection process described in the Utah Code of Judicial Administration for a district court panel.

~~[(a)]~~(4) **Exceptions.** A party, or a side, is not entitled to change a judge as a matter of right under this paragraph (a):

~~[(a)(4)]~~(A) in any proceeding regarding a petition for post-conviction relief under Rule 65C;

~~[(a)(4)]~~(B) on a petition to modify child custody, child support, or alimony, unless the judge assigned to the action is not the same judge assigned to any of the previous actions between the parties;

~~[(a)(4)]~~(C) in an action before the juvenile court or the Business and Chancery Court;

~~[(a)(4)]~~(D) in an action in which the judge is sitting as a water or tax judge;

~~[(a)(4)]~~(E) in an action on remand from an appellate court; or

~~[(a)(4)]~~(F) if an action is unable to be transferred under paragraph (a)(3)(C) to another county in accordance with Rule 42.

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(b) Right to change a judge by agreement of the parties.

[(b)](1) Notice of a change of judge.

[(b)(1)](A) Except in actions with only one party, all parties joined in the action may, by unanimous agreement and without cause, change the judge assigned to the action by filing a notice of change of judge.

_____ (B) For an action before a district court panel, all parties joined in the action may, by unanimous agreement and without cause, change a judge assigned to the panel by filing a notice of change of judge.

[(b)(1)(B)] The parties shall send a copy of the notice to the assigned judge and the presiding judge.]

_____ (C) Except as provided in paragraph (b)(1)(D), the parties must file a copy of the notice with the assigned judge and send a copy of the notice to the presiding judge.

_____ (D) If the action is before a district court panel, the parties must file a copy of the notice with the district court panel and send a copy of the notice to the presiding officer of the Judicial Council.

[(b)(1)(C)] (E) The notice [shall] must be signed by all parties and [shall] must state:

(1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in the action have agreed to the change; (4) that no other persons are expected to be named as parties; and (5) that a good faith effort has been made to serve all parties named in the pleadings.

[(b)(1)(D)] (F) The notice [shall not] may not specify any reason for the change of judge.

[(b)(1)(E)] (G) Under no circumstances [shall] is more than one change of judge [be] allowed under this paragraph (b) in an action.

[(b)](2) Time for filing a notice.

[(b)(2)](A) Unless extended by the court upon a showing of good cause, the notice must be filed within 90 days after:

_____ (i) commencement of the action or prior to the notice of trial setting, whichever occurs first[-]; or

_____ (ii) if the action is before a district court panel, the parties receive notice of the judges assigned to the district court panel.

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[(b)(2)](B) Failure to file a timely notice precludes any change of judge under this paragraph (b).

[(b)](3) **Assignment of action.**

[(b)(3)](A) Upon the filing of a notice of change, the assigned judge [shall] must take no further action in the case.

[(b)(3)](B) [The] Except as provided in paragraph (b)(3)(D), the presiding judge [shall] must promptly determine whether the notice is proper and, if so, [shall] must reassign the action.

[(b)(3)](C) If the presiding judge is also the assigned judge, the clerk [shall] must promptly send the notice to the associate presiding judge, to another judge of the district, or to any judge of a court of like jurisdiction, who [shall] must determine whether the notice is proper and, if so, [shall] must reassign the action.

(D) If a notice is filed for a change of judge on a district court panel:

(i) the presiding officer of the Judicial Council must promptly determine whether the notice is proper; and

(ii) if the notice is proper, a new judge must be promptly assigned in accordance with the random selection process described in the Utah Code of Judicial Administration for a district court panel.

[(b)](4) **Nondisclosure to court.** [No party shall] A party may not communicate to the court, or cause another to communicate to the court, the fact of any party's seeking consent to a notice of change.

(c) **Rule 63 unaffected.** Nothing in this rule precludes the right of any party to seek disqualification of a judge under Rule 63.

345 Section 5. **Effective date.**

Effective Date.

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.

348 Section 6. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in enrolling this resolution:

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(1) delete the phrase "the effective date of this resolution" where the phrase appears in Sections 2 and 7 of this resolution; and

(2) replace the phrase with the actual date on which the resolution takes effect.

Section 7. **Coordinating S.J.R. 5 with S.J.R. 6.**

If S.J.R. 5, Joint Resolution Amending the Utah Rules of Civil Procedure, and S.J.R. 6, Joint Resolution Amending Court Rules Regarding Medical Malpractice, both pass and become law, the Legislature intends that, on the date when both resolutions have passed and taken effect, Rule 42 of the Utah Rules of Civil Procedure be amended to read:

"Rule 42. Consolidation; separate trials; ~~venue transfer~~ transfer of an action.

(a) Consolidation.

(1) When actions involving a common question of law or fact or arising from the same transaction or occurrence are pending before the court in one or more judicial districts, the court may, on motion of any party or on the court's own initiative:

____ (A) order that the actions are consolidated in whole or in part for any purpose, including discovery, other pretrial matters, or a joint hearing or trial;

____ (B) stay any or all of the proceedings in any action subject to the order;

____ (C) transfer any or all further proceedings in the actions to a location in which any of the actions is pending after consulting with the presiding judge of the receiving court; and

____ (D) make other such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

~~[(1)]~~ (2) In determining whether to order consolidation and the appropriate location for the consolidated proceedings, the court may consider, among other factors:

____ (A) the complexity of the actions;

____ (B) the importance of any common question of fact or law to the determination of the actions;

____ (C) the risk of duplicative or inconsistent rulings, orders, or judgments;

____ (D) the case and record classifications of each case as described in Rule 4-202.02 of the Utah Code of Judicial Administration;

____ (E) the relative procedural postures of the actions;

____ (F) the risk that consolidation may unreasonably delay the progress, increase the expense, or complicate the processing of any action;

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____ (G) prejudice to any party that far outweighs the overall benefits of consolidations;

____ (H) the convenience of the parties, witnesses, and counsel; and

____ (I) the efficient utilization of judicial resources and the facilities and personnel of the court.

[{(2)}] (3) A motion to consolidate may be filed or opposed by any party to either action to be consolidated, without seeking permission to intervene. The motion must be filed in and heard by the judge assigned to the first action filed and must be served on all parties in each action pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the order denying or granting the motion.

[{(3)}] (4) If the court orders consolidation, the consolidated case will be heard by the judge assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed upon by the originally assigned judges. The court will order that a single case number be used for all subsequent filings in the consolidated case.

(b) Consolidation or severance in whole or in part. For convenience or to avoid prejudice, the court may:

(1) order that the consolidated matters be tried together or that a separate trial be held on

any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

(2) order that the consolidated matters be severed at any point and provide that the

matters be treated as separate actions going forward, including that the severed matters be tried by either the judge in the consolidated matter or the originally assigned judge.

(c) Separate trials in a medical malpractice action. For a malpractice action against a health care provider, the factfinder may not prejudice a defendant by knowing or considering evidence of the claimant's alleged losses for past medical expenses or the past cost of medical equipment before:

(1) liability for the alleged losses has been established; and

(2) any claim or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.

[(c)] (d) Reassignment. If the consolidation of the actions would be otherwise appropriate but is not administratively possible, the judge assigned to the first action may order the court clerk to reassign the other actions to the judge assigned to the first action. Such actions will be treated for all purposes as if they were consolidated except that the actions will retain their

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separate case numbers, which must be included on all filings.

~~[(d)] (e) [Venue Transfer.]~~ **Transfer of an action to proper venue or the business and**

chancery court.

(1) Transfer to proper venue.

____ (A) On timely motion of any party, where transfer to a proper venue is available, the court must transfer any action filed in an improper venue.

~~[(2)]~~ (B) The court must give substantial deference to a plaintiff's choice of proper venue.

____ (C) On timely motion of any party, a court may:

____ (i) transfer venue of any action, in whole or in part, to any other venue for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

____ (ii) stay any or all of the proceedings in the action; and

____ (iii) make other such orders concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs or delay. ~~[In determining whether to transfer venue and the appropriate venue for the transferred proceedings, the court may consider, among other facts, whether the transfer will: increase the likelihood of a fair and impartial determination in the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice otherwise caused by the venue requirements; and advance the interests of justice.]~~

~~[(3)]~~ The court may direct that specified parties pay the expenses, if any, of transfer.]

(2) Transfer to business and chancery court.

____ (A) If a plaintiff filed the complaint in the district court and the action meets the jurisdictional requirements of the business and chancery court, a party may file a separate notice requesting transfer of the action to the business and chancery court.

____ (B) If a party makes a request to transfer an action to the business and chancery court within 21 days after the appearance of the party:

____ (i) the district court must transfer the action to the business and chancery court unless the district court determines that the transfer will prejudice the interests of justice; and

____ (ii) the district court may not give any deference to the plaintiff's choice to file the complaint in the district court.

____ (C) If a party makes a request to transfer an action to the business and chancery court

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more than 21 days after the appearance of the party, the district court may:

_____ (i) give deference to the plaintiff's choice to file the complaint in the district court;

or

_____ (ii) transfer the action to the business and chancery court if the factors described in paragraph (e)(3) weigh in favor of transfer.

_____ (D) A district court may not transfer the action to the business and chancery court under this rule if the action does not meet the jurisdictional requirements of the business and chancery court.

(3) Factors in determining whether to transfer an action. On a motion under paragraph (e)(1) or (2), a court may consider, among other factors, whether the transfer will:

_____ (A) increase the likelihood of a fair and impartial determination in the action;

_____ (B) minimize expense or inconvenience to parties, witnesses, or the court;

_____ (C) decrease delay;

_____ (D) avoid hardship or injustice otherwise caused by:

_____ (i) the venue requirements if the court is determining whether to transfer the action to the appropriate venue under paragraph (e)(1); or

_____ (ii) keeping the action in the district court if the court is determining whether to transfer the action to the business and chancery court under paragraph (e)(2); and

_____ (E) advance the interests of justice.

(4) Expenses. The court may direct that specified parties pay the expenses, if any, of a transfer of an action to the appropriate venue or to the business and chancery court.

(f) Transfer of an action to district court panel.

(1) The Attorney General, the Governor, or the Legislature may file a notice to convene a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the district court if the notice to convene is filed within 45 days after:

_____ (A) the day on which the action is commenced;

_____ (B) the day on which the amended complaint is filed if the complaint is amended in the action; or

_____ (C) the effective date of this resolution if the action is pending in the district court on the effective date of this resolution.

(2) If the Attorney General, the Governor, or the Legislature files a notice to convene a

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district court panel, the district court judge assigned to the action at the time the notice is filed must:

____ (A) notify the presiding officer of the Judicial Council that the action must be transferred to a district court panel; and

____ (B) transfer the action to the district court panel convened to hear and decide the action.

(3) Upon the filing of a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed may not sever any matter from the action or take any further action."

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