

**Brady Brammer** proposes the following substitute bill:

**Joint Resolution Amending the Utah Rules of Civil Procedure**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brady Brammer**

House Sponsor: Jordan D. Teuscher

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**LONG TITLE**

**General Description:**

This resolution amends the Utah Rules of Civil Procedure.

**Highlighted Provisions:**

This resolution:

- ▶ amends Utah Rules of Civil Procedure, Rule 1, to add a definition;
- ▶ amends Utah Rules of Civil Procedure, Rule 42, to address the transfer of an action;
- ▶ 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
- ▶ 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

29 **Rule 63A**, Utah Rules of Civil Procedure

30 **Utah Code Sections affected by Coordination Clause:**

31 **Rule 42**, as Utah Rules of Civil Procedure

32

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

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

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

39 **Rule 1 . General provisions; definition.**

40 **(a) Scope of rules.** These rules govern the procedure in the courts of the state of Utah in  
 41 all actions of a civil nature, whether cognizable at law or in equity, and in all statutory  
 42 proceedings, except as governed by other rules promulgated by this court or statutes enacted  
 43 by the Legislature, and except as stated in Rule 81. They must be liberally construed and  
 44 applied to achieve the just, speedy, and inexpensive determination of every action. These rules  
 45 govern all actions brought after they take effect and all further proceedings in actions then  
 46 pending. If, in the opinion of the court, applying a rule in an action pending when the rule  
 47 takes effect would not be feasible or would be unjust, the former procedure applies.

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

50 *The following section is affected by a coordination clause at the end of this bill.*

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

52 **Rule 42 . Consolidation; separate trials; venue transfer.**

53 **(a) Consolidation.**

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

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

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

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

62 **(D)** make other such orders concerning proceedings therein as may tend to avoid

63 unnecessary costs or delay.

64 [(1)] (2) In determining whether to order consolidation and the appropriate location for  
65 the consolidated proceedings, the court may consider, among other factors:

66 \_\_\_\_\_ (A) the complexity of the actions;

67 \_\_\_\_\_ (B) the importance of any common question of fact or law to the determination of  
68 the actions;

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

70 \_\_\_\_\_ (D) the case and records classification of each case as described in Rule 4-202.02  
71 of the Utah Code of Judicial Administration;

72 \_\_\_\_\_ (E) the relative procedural postures of the actions;

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

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

76 \_\_\_\_\_ (H) the convenience of the parties, witnesses, and counsel; and

77 \_\_\_\_\_ (I) the efficient utilization of judicial resources and the facilities and personnel of  
78 the court.

79 [(2)] (3) A motion to consolidate may be filed or opposed by any party to either action to  
80 be consolidated, without seeking permission to intervene. The motion must be filed in and  
81 heard by the judge assigned to the first action filed and must be served on all parties in each  
82 action pursuant to Rule 5. The movant must file in each action notice of the motion and notice  
83 of the order denying or granting the motion.

84 [(3)] (4) If the court orders consolidation, the consolidated case will be heard by the  
85 judge assigned to the first action filed, unless otherwise ordered by the presiding judge or  
86 agreed upon by the originally assigned judges. The court will order that a single case number  
87 be used for all subsequent filings in the consolidated case.

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

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

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

95 (c) **Reassignment.** If the consolidation of actions would be otherwise appropriate but is not  
96 administratively possible, the judge assigned to the first action may order the court clerk to

97 reassign the other actions to the judge assigned to the first action. Such actions will be treated  
 98 for all purposes as if they were consolidated except that the actions will retain their separate  
 99 case numbers, which must be included on all filings.

100 **(d) [Venue Transfer] Transfer of an action to proper venue or the business and chancery**

101 **court.**

102 **(1) Transfer to proper venue.**

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

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

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

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

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

111 (iii) make other such orders concerning proceedings therein to pursue the  
 112 interests of justice and avoid unnecessary costs or delay. [In determining whether to transfer

113 venue and the appropriate venue for the transferred proceedings, the court may consider,

114 among other factors, whether transfer will: increase the likelihood of a fair and impartial

115 determination in the action; minimize expense or inconvenience to parties, witnesses, or the

116 court; decrease delay; avoid hardship or injustice otherwise caused by venue requirements; and

117 advance the interests of justice.

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

119 **(2) Transfer to business and chancery court.**

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

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

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

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

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

131 \_\_\_\_\_ (i) give deference to the plaintiff's choice to file the complaint in the district court;  
 132 or

133 \_\_\_\_\_ (ii) transfer the action to the business and chancery court if the factors described in  
 134 paragraph (d)(3) weigh in favor of transfer.

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

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

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

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

142 \_\_\_\_\_ (C) decrease delay;

143 \_\_\_\_\_ (D) avoid hardship or injustice otherwise caused by:

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

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

148 \_\_\_\_\_ (E) advance the interests of justice.

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

151 \_\_\_\_\_ **(e) Transfer of an action to district court panel.**

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

155 \_\_\_\_\_ (A) the day on which the action is commenced;

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

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

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

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

165 \_\_\_\_\_ (B) transfer the action to the district court panel convened to hear and decide the  
166 action.

167 \_\_\_\_\_ (3) Upon the filing of a notice to convene a district court panel, the district court judge  
168 assigned to the action at the time the notice is filed may not sever any matter from the action or  
169 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.**

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

176  
177 **(b) Motion to disqualify; affidavit or declaration.**

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

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

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

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

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

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

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

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

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

198 ~~(b)(5)~~ (6) If timeliness of the motion is determined under paragraph ~~(b)(2)(C)~~ (b)(3)(C)

199 or paragraph ~~[(b)(4)]~~ (b)(5), the affidavit or declaration supporting the motion must state when  
200 and how the party came to know of the reason for disqualification.

201 **(c) Reviewing judge.**

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

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

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

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

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

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

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

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

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

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

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

228 Section 4. **Rule 63A**, Utah Rules of Civil Procedure is amended to read:

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

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

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

232 ~~[(a)(1)]~~(A) In a civil action pending in a court in a county with seven or more district

233 court judges, each side is entitled to one change of judge as a matter of right under this  
234 paragraph (a).

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

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

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

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

245 ~~[(a)(2)]~~ **Notice of a change of judge.**

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

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

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

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

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

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

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

259 ~~[(a)(2)(D)(ii)]~~ (ii) on the side of a defendant or respondent, within seven days after the  
260 day on which the defendant or respondent is served the complaint or petition, or at the time of  
261 the first filing by the defendant or respondent with the court, whichever occurs first.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306 [(b)(1)(C)] (E) The notice [shah] must be signed by all parties and [shah] must state:  
307 (1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that  
308 all parties joined in the action have agreed to the change; (4) that no other persons are expected  
309 to be named as parties; and (5) that a good faith effort has been made to serve all parties named  
310 in the pleadings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

345 Section 5. **Effective Date.**

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

348 Section 6. **Revisor instructions.**

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

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

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

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

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

359 \_\_\_\_\_ **"Rule 42. Consolidation; separate trials; ~~[venue transfer]~~ transfer of an action.**

360 \_\_\_\_\_ (a) **Consolidation.**

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

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

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

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

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

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

373 \_\_\_\_\_ (A) the complexity of the actions;

374 \_\_\_\_\_ (B) the importance of any common question of fact or law to the determination of the  
375 actions;

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

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

379 \_\_\_\_\_ (E) the relative procedural postures of the actions;

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

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

383 \_\_\_\_\_ (H) the convenience of the parties, witnesses, and counsel; and

384 \_\_\_\_\_ (I) the efficient utilization of judicial resources and the facilities and personnel of the  
385 court.

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

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

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

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

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

402 \_\_\_\_\_ (c) **Separate trials in a medical malpractice action.** For a malpractice action against a health

403 care provider, the factfinder may not prejudice a defendant by knowing or considering  
 404 evidence of the claimant's alleged losses for past medical expenses or the past cost of medical  
 405 equipment before:

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

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

409 \_\_\_\_ ~~[(e)]~~ **(d) Reassignment.** If the consolidation of the actions would be otherwise appropriate  
 410 but is not administratively possible, the judge assigned to the first action may order the court  
 411 clerk to reassign the other actions to the judge assigned to the first action. Such actions will be  
 412 treated for all purposes as if they were consolidated except that the actions will retain their  
 413 separate case numbers, which must be included on all filings.

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

415 **chancery court.**

416 \_\_\_\_ **(1) Transfer to proper venue.**

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

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

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

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

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

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

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

433 \_\_\_\_ **(2) Transfer to business and chancery court.**

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

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

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

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

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

445 \_\_\_\_\_ (i) give deference to the plaintiff's choice to file the complaint in the district court;  
446 or

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

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

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

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

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

456 \_\_\_\_\_ (C) decrease delay;

457 \_\_\_\_\_ (D) avoid hardship or injustice otherwise caused by:

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

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

462 \_\_\_\_\_ (E) advance the interests of justice.

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

465 \_\_\_\_\_ **(f) Transfer of an action to district court panel.**

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

469 \_\_\_\_\_ (A) the day on which the action is commenced;

470 \_\_\_\_\_ (B) the day on which the amended complaint is filed if the complaint is amended in

471 the action; or

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

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

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

479 \_\_\_\_\_ (B) transfer the action to the district court panel convened to hear and decide the  
480 action.

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