Utah Supreme Court
Advisory Committee on the Utah Rules of Civil Procedure
Meeting Agenda

Rod N. Andreason, Chair
Justin Toth, Vice Chair

Location: WebEx Webinar: Link

Date: November 8, 2026

Time: 4:00 – 6:00 p.m.

Welcome and Approval of Minutes	Tab 1	Rod Andreason
Rule 108 – Subparagraph Organization Consider forming a subcommittee to review Rule 108 comprehensively, including whether former subparagraph (d) should remain combined with (c).	Tab 2	Judge Conklin
Rule 9(c) – Heightened Pleading Standard for Alter Ego Claims Consider amending Rule 9(c) to require alter ego claims to be pleaded with particularity, similar to fraud and mistake. Provide input on whether limited discovery under Rule 26 should be permitted when supporting evidence is primarily in the defendant's possession.	Tab 3	Rod Andreason
Rule 64D(b)(5) and (c)(5) – Garnishee Fees Consider amendments to conform to S.B. 307 (2026), which amended Utah Code § 78A-2-216 to allow garnishees to deduct their fees from funds payable to creditors rather than requiring creditors to pay the fees	Tab 4	Rod Andreason

directly, and determine whether additional amendments to Rule 64D are needed.		
Rule 58A – Corrections Consider correcting a typographical error in the advisory committee note and potentially incorrect or outdated cross-references.	Tab 5	Ash McMurray
Rule 5 Hear an update from the subcommittee on their review of the public comments received and potential amendments to the rule.	Tab 6	Judge Cornish
Rule 26(a)(4)(C) – Expert Disclosure Deadlines Consider proposed amendments to clarify expert disclosure deadlines when a party who does not bear the burden of proof designates an initial expert.	Tab 7	Meagan Rudd
Rule 23(e) – Class Action Settlements and Dismissals Consider amendments to align with the federal rule by clarifying that court approval is required for class settlements, dismissals, or compromises, but not individual claims, and whether other provisions should also be aligned.	Tab 8	Ash McMurray
Adjourn		Rod Andreason

Reminder: Check style guide for conformity before rules are sent to the Supreme Court.

URCP Committee Website: Link

2026 Meeting Schedule:

Jan 28 • Feb 25 • Mar 18 • April 22 • May 27 • Sep 23 • Oct 28 • Nov 18 • Dec 16

Tab 1

UTAH SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CIVIL PROCEDURE

Summary Minutes – October 28, 2026
via Webex

THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX

Committee Members	Present	Excused	Guests/Staff Present
Rod N. Andreason, Chair	X		Sonia Sweeney, Staff
Justin T. Toth, Vice Chair	X		Keri Sargent
Ash McMurray	X		Judge Jennifer Mabey
Michael Stahler		X	
Tracy Bullock	X		
Joshua Jewkes	X		
Meagan Rudd	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish	X		
Judge Catherine Conklin	X		
Jonas Anderson		X	
Heather Lester	X		
J. Brett Chambers	X		
Judge Blaine Rawson		X	
Judge Ronald Russell		X	
Judge Patrick Corum	X		
Rachel Sykes	X		
Michael Young	X		
Tyler Lindley		X	
Commissioner Marian Ito	X		
Judge Laura Scott, *Emeritus*		X	
James Hunnicutt, *Emeritus*	X		

(1) INTRODUCTIONS

The meeting began at 4:11 p.m. with a quorum present. Mr. Rod Andreason welcomed the Committee Members.

(2) APPROVAL OF MINUTES

Mr. Andreason introduced and welcomed new Committee Member Ms. Tracy Bullock, the Trial Court Executive (TCE) for the Fourth District Court. Mr. Andreason also informed the Committee that Mr. Tyler Lindley would be taking a short-term leave of absence to complete a clerkship at the United States Supreme Court, and congratulated Ms. Meagan Rudd on her nomination to fill a district court judicial vacancy in the Fourth District.

Mr. Andreason acknowledged the proposed edits to the September 23, 2026 meeting minutes by Mr. Jim Hunnicutt that had been circulated via email. Judge Rita Cornish moved to approve the minutes subject to Mr. Hunnicutt's proposed revisions. Mr. Hunnicutt seconded the motion. The motion to approve the minutes passed unanimously.

(3) RULES 101 AND 108, AND NEW RULE 000 – DEBT COLLECTION AND HOUSING ACTION DIVISION

Judge Cornish presented proposed amendments to Rules 101 and 108 and proposed new Rule 000 to address the implementation of the Debt Collection and Housing Action Division (DCHAD), established under S.B. 270 (2026). Judge Cornish explained that the legislation provides funding for two statewide commissioners and support staff, with operations scheduled to begin January 1, 2027. Although the Supreme Court's ad hoc committee on high-volume case types is developing streamlined procedural rules anticipated to take effect July 1, 2027, the Utah Rules of Civil Procedure will govern proceedings in the new division in the interim.

Judge Cornish explained that, unlike domestic relations commissioners, whose recommendations generally operate as court orders unless modified, commissioners in the new division may issue certain orders but their recommendations do not become court orders unless adopted by a district judge. The proposed amendments to Rules 101 and 108 clarify that those rules' specialized motion and objection procedures apply to domestic relations commissioners. Proposed new Rule 000 establishes procedures for objecting to orders issued by commissioners in the new division and clarifies that recommendations are not court orders and are not subject to objection.

During the discussion, Ms. Laurel Hanks raised concerns about the potential impact of the amendments on existing court forms. To avoid affecting existing self-help forms, the Committee agreed to retain the term “court commissioner” in line 20 of Rule 101. The Committee also agreed to remove the requirement to include the date of the order in the caption under proposed Rule 000, simplifying automated form generation. Additionally, Ms. Hanks identified a cross-reference in Rule 7(b) addressing motions before commissioners in

domestic relations matters. The Committee agreed to amend that provision to specify "domestic relations commissioner."

Judge Cornish moved to approve the amendments to Rules 7(b), 101, and 108 and proposed new Rule 000, as revised during the discussion, and forward them to the Supreme Court for approval, with a request for an expedited effective date of January 1, 2027, concurrent with a 45-day public comment period. Judge Catherine Conklin seconded the motion. The motion passed unanimously.

(4) RULE 7 – REQUESTS FOR HEARINGS ON DISPOSITIVE MOTIONS

Judge Patrick Corum presented a proposed amendment to Rule 7(h), which governs requests for oral argument on certain dispositive motions. Judge Corum explained that the rule currently requires a hearing upon request unless the motion is frivolous or the issue has been authoritatively decided. He noted that hearings are sometimes requested on motions for summary judgment when the briefing makes clear that disputed issues of material fact preclude granting the motion. In those circumstances, a hearing may unnecessarily consume judicial resources when the motion could be resolved through a written order. Judge Corum proposed allowing courts to deny a hearing request upon finding that a hearing would not materially aid the court.

Committee Members discussed the proposal, including the competing interests of judicial efficiency and the opportunity for litigants to feel they had been heard. Ms. Rachel Sykes expressed concern that oral argument can be particularly valuable in complex cases, while Mr. J. Brett Chambers emphasized the importance of allowing litigants their day in court and the confidence in the judicial process that such opportunities can foster. Judge Conklin supported the amendment, citing the substantial demands that mandatory hearing requirements place on district courts.

Ms. Rudd asked whether courts should be required to make written findings when denying a hearing request. Judge Corum and Judge Cornish expressed concern that such a requirement would impose an unnecessary additional burden without serving a meaningful appellate purpose. During the Committee's review of the proposed language, Members also agreed to add a comma on line 104.

Judge Corum moved to approve the proposed amendment to Rule 7(h), as revised during the discussion, and forward it to the Supreme Court for approval for public comment. Judge Cornish seconded the motion. The motion passed by majority vote, with two Members opposed.

(5) RULE 6 – JUNETEENTH NATIONAL FREEDOM DAY

Mr. Andreason presented a proposed amendment to Rule 6(a) to conform the rule's holiday computing provisions with H.B. 309 (2026). H.B. 309 amended Utah Code § 63G-1-301 to align Utah's state observation of Juneteenth National Freedom Day with the federal holiday schedule on June 19, replacing the prior statutory designation of the third Monday

in June. During the discussion, Ms. Hanks proposed the rule simply state "Juneteenth National Freedom Day" while striking the outdated parenthetical reference. Mr. Hunnicutt also identified minor spacing typographical errors in lines 47 and 49 of the existing rule text regarding "Labor Day" and "Thanksgiving Day," which the Committee agreed to correct simultaneously.

Ms. Sykes moved to approve the proposed amendments to Rule 6(a), incorporating the corrected holiday title and typographical spacing fixes, and to forward the rule to the Supreme Court for approval for public comment. Judge Cornish seconded the motion. The motion passed unanimously.

(6) RULE 11 – ARTIFICIAL INTELLIGENCE IN COURT FILINGS

Judge Jennifer Mabey of the Fourth District Court presented a request from the Judicial Council's Management Committee regarding the increasing use of artificial intelligence (AI) in court filings. Judge Mabey described the significant burden that AI-generated pleadings, particularly those submitted by self-represented litigants, have placed on trial courts. She noted instances in which litigants have filed dozens of AI-generated motions containing fabricated legal citations, nonexistent cases, and other inaccurate information, requiring substantial judicial resources to review and address.

Judge Mabey explained that the Management Committee referred the issue to the Policy and Planning Committee to develop a standardized notice for parties initiating cases and to this Committee to consider whether Rule 11 should be amended to address the use of AI in court filings. She also shared recent amendments adopted by the Florida Supreme Court as a potential model for the Committee's consideration.

Committee Members discussed the importance of distinguishing between appropriate uses of AI and the submission of inaccurate or misleading filings, while maintaining accountability under Rule 11 for both attorneys and self-represented litigants. The Committee agreed to utilize its previously established AI Subcommittee to evaluate whether amendments to Rule 11 or other procedural safeguards are warranted. Commissioner Marian Ito and Ms. Keri Sargent volunteered to join the subcommittee. The subcommittee will review approaches taken in other jurisdictions, coordinate with Judge Mabey and the Policy and Planning Committee as appropriate, and return to the Committee with recommendations.

(7) ADJOURNMENT

The meeting adjourned at approximately 6:06 p.m. The next meeting will be November 18, 2026, at 4:00 p.m.

Tab 2

Rule 108. Objection to court commissioner's recommendation.

Effective: ~~*5/1/2026*~~

(a) A recommendation of a court commissioner is the order of the court until modified by the court. A party may file a written objection to the recommendation within 14 days after the recommendation is made in open court or, if the court commissioner takes the matter under advisement, within 14 days after the minute entry of the recommendation is served. A judge's counter-signature on the commissioner's recommendation does not affect the review of an objection.

(b) The objection must identify succinctly and with particularity the findings of fact, the conclusions of law, or the part of the recommendation to which the objection is made and state the relief sought. The memorandum in support of the objection must explain succinctly and with particularity why the findings, conclusions, or recommendation are incorrect. The time for filing, length and content of memoranda, affidavits, and request to submit for decision are as stated for motions in Rule 7.

(c) If there has been a substantial change of circumstances since the commissioner's recommendation, the judge may, in the interests of judicial economy, consider new evidence. Otherwise, any evidence that was not presented to the commissioner, whether by proffer, testimony, or exhibit, may not be presented to the judge.

(d~~1~~) The judge may hold a hearing on any objection.

(1~~2~~) If the hearing before the commissioner was held under Utah Code title 26B, chapter 5, part 3, Utah State Hospital and Other Mental Health Facilities; Utah Code title 78B, chapter 7, Protective Orders, or on a motion to enforce order and for sanctions, any party has the right, upon request, to present testimony and other evidence on genuine issues of material fact.

(2~~3~~) If the hearing before the commissioner was in a domestic relations matter other than a cohabitant abuse protective order, any party has the right, upon request:

(A) to present testimony and other evidence on genuine issues of material fact relevant to custody; and

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(B) to a hearing at which the judge may require testimony or proffers of testimony on genuine issues of material fact relevant to issues other than custody.

(cd) If a party does not request a hearing, the judge may hold a hearing or review the record of evidence, whether by proffer, testimony or exhibit, before the commissioner.

(fe) The judge will make independent findings of fact and conclusions of law based on the evidence, whether by proffer, testimony or exhibit, presented to the judge, or, if there was no hearing before the judge, based on the evidence presented to the commissioner.

Tab 3

From: Brady Brammer <bbrammer@le.utah.gov>
Sent: Tuesday, August 25, 2026 3:21 PM
To: Rod N. Andreason <randreason@kmclaw.com>
Subject: Alter Ego

CAUTION: EXTERNAL

Rod,

I am writing you in your role as the chair of the Civil Rules Committee to let you know that I have opened a bill file to amend Rule 9(c) (pleading fraud/mistake with particularity) to include alter ego claims as requiring a heightened pleading standard. Rule 9(c) would be amended to read: "In alleging fraud, mistake, or alter ego, a party must state with particularity the circumstances constituting fraud, mistake, or alter ego."

I bring this to your attention so that perhaps you could discuss it with the civil rules committee. I am exploring this change for the following reasons:

1. Personal liability warrants meaningful prefiling support. Alter ego permits liability against someone who did not incur the underlying obligation. Because piercing limited liability is an exceptional remedy, proponents can argue a plaintiff should possess concrete facts before naming owners, officers, or affiliated entities.
2. It would curb boilerplate and coercive joinder. Complaints often recite commingling, undercapitalization, failure to observe formalities, and domination without identifying any supporting transaction.
3. It would provide fair notice. Particularity could require the plaintiff to identify:
   - each person and entity alleged to be an alter ego;
   - the relationship among them;
   - the specific conduct reflecting unity of interest;
   - how the entity form caused or facilitated the alleged injustice; and
   - the transaction or obligation to which the theory applies.
4. It could narrow expensive discovery. Boilerplate alter-ego allegations can justify broad discovery into finances, capitalization, corporate records, related entities, and personal transactions. A stronger pleading threshold may focus discovery on an identified factual theory.
5. It fits Utah's cautious substantive approach. The Utah Supreme Court says courts should pierce the corporate veil only "reluctantly and cautiously." *Jones & Trevor Marketing, Inc. v. Lowry*, 2012 UT 39, ¶ 15, 284 P.3d 630. A heightened pleading requirement arguably implements this substantive caution at the outset.
6. It promotes entity-specific allegations. The amendment could discourage collective allegations against "Defendants" and require the plaintiff to explain what each targeted person or entity allegedly did.

My hesitation is on the issue that oftentimes the evidence of alter ego is the possession of the defendant. Thus, I'm open to suggestions to deal with this. It could be to allow some discovery under rule 26 into the *Coleman* factors of alter ego without having to allege alter ego.

Happy to hear your suggestions or the suggestions of the civil rules committee.

Thanks,

Brady Brammer
District 21 Senator
801-709-1790 (Cell)

Rule 9. Pleading special matters.

Effective: ~~11/1/2016~~

(a) Capacity or Authority to Sue; Legal Existence.

(1) In General. Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) a party's capacity to sue or be sued;

(B) a party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) Raising Those Issues. To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) Unknown parties.

~~(b)~~**(1) Designation.** When a party does not know the name of an opposing party, it may state that fact in the pleadings, and designate the opposing party in a pleading by any name. When the true name of the opposing party becomes known, the pleading must be amended.

~~(b)~~**(2) Descriptions of interest in quiet title actions.** If one or more parties in an action to quiet title are designated in the caption as "unknown," the pleadings may describe the unknown persons as "all other persons unknown, claiming any right, title, estate or interest in, or lien upon the real property described in the pleading adverse to the complainant's ownership, or clouding its title."

(c) Fraud, mistake, alter ego, or condition of the mind. In alleging fraud, ~~or~~ mistake, or alter ego, a party must state with particularity the circumstances constituting fraud, ~~or~~ mistake, or alter ego. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

(d) Conditions precedent. In pleading conditions precedent, it is sufficient to allege generally that all conditions precedent have been performed or have occurred. When

denying that a condition precedent has been performed or has occurred, a party must do so with particularity.

(e) Official document or act. In pleading an official document or official act it is sufficient to allege that the document was legally issued or the act was legally done.

(f) Judgment. In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it is sufficient to plead the judgment or decision without showing jurisdiction to render it.

(g) Time and place. An allegation of time or place is material when testing the sufficiency of a pleading.

(h) Special damage. If an item of special damage is claimed, it must be specifically stated.

(i) Statute of limitations. In pleading the statute of limitations it is not necessary to state the facts showing the defense but it may be alleged generally that the cause of action is barred by the statute, referring to or describing the statute by section number, subsection designation, if any, or designating the provision relied on sufficiently to identify it.

(j) Private statutes; ordinances. In pleading a private statute, an ordinance, or a right derived from a statute or ordinance, it is sufficient to refer to the statute or ordinance by its title and the day of its passage or by its section number or other designation in any official publication of the statute or ordinance. The court will take judicial notice of the statute or ordinance.

(k) Libel and slander.

~~(k)~~**(1) Pleading defamatory matter.** In an action for libel or slander it is sufficient to allege generally that the defamatory matter out of which the action arose was published or spoken concerning the plaintiff. If the allegation is denied, the party alleging the defamatory matter must establish at trial that it was published or spoken.

~~(k)~~**(2) Pleading defense.** The defendant may allege the truth of the matter charged as defamatory and any mitigating circumstances to reduce the amount of damages. Whether or not justification is proved, the defendant may give evidence of the mitigating circumstances.

(l) Allocation of fault.

~~(l)~~(1) A party seeking to allocate fault to a non-party under Title 78B, Chapter 5, Part 8 must file:

~~(l)(1)~~(A) a description of the factual and legal basis on which fault can be allocated; and

~~(l)(1)~~(B) information known or reasonably available to the party identifying the non-party, including name, address, telephone number and employer. If the identity of the non-party is unknown, the party must so state.

~~(l)~~(2) The information specified in paragraph (l)(1) must be included in the party's responsive pleading if then known or must be included in a supplemental notice filed within a reasonable time after the party discovers the factual and legal basis on which fault can be allocated. The court, upon motion and for good cause shown, may permit a party to file the information specified in paragraph (l)(1) after the expiration of any period permitted by this rule, but in no event later than 90 days before trial.

~~(l)~~(3) A party must not seek to allocate fault to another except by compliance with this rule.

Advisory Committee Note

The 2016 amendments deleted former paragraph (k) on renewing judgments because it was superfluous. The Renewal of Judgment Act (Utah Code Sections 78B-6-1801 through 78B-6-1804) allows a domestic judgment to be renewed by motion, and Section 78B-5-302 governs domesticating a foreign judgment, which can then be renewed by motion. The process for renewing a judgment by motion is governed by Rule 58C.

Issues of capacity, conditions precedent, and statutes of limitation in paragraphs (a), (d~~e~~), and (i~~j~~) should be decided along with other claims and defenses.

Tab 4

Rule 64D. Writ of garnishment.

Effective: ~~*5/1/2014*~~

(a) Availability. A writ of garnishment is available to seize property of the defendant in the possession or under the control of a person other than the defendant. A writ of garnishment is available after final judgment or after the claim has been filed and prior to judgment. The maximum portion of disposable earnings of an individual subject to seizure is the lesser of:

~~(a)~~(1) 50% of the defendant's disposable earnings for a writ to enforce payment of a judgment for failure to support dependent children or 25% of the defendant's disposable earnings for any other judgment; or

~~(a)~~(2) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by thirty times the federal minimum hourly wage prescribed by the Fair Labor Standards Act in effect at the time the earnings are payable.

(b) Grounds for writ before judgment. In addition to the grounds required in Rule 64A, the grounds for a writ of garnishment before judgment require all of the following:

~~(b)~~(1) that the defendant is indebted to the plaintiff;

~~(b)~~(2) that the action is upon a contract or is against a defendant who is not a resident of this state or is against a foreign corporation not qualified to do business in this state;

~~(b)~~(3) that payment of the claim has not been secured by a lien upon property in this state;

~~(b)~~(4) that the garnishee possesses or controls property of the defendant; and

~~(b)~~(5) that the garnishee fee will be paid or deducted in accordance with ~~plaintiff has attached the garnishee fee established by~~ Utah Code Section 78A-2-216.

(c) Statement. The application for a post-judgment writ of garnishment must~~shall~~ state:

~~(c)~~(1) if known, the nature, location, account number and estimated value of the property and the name, address and phone number of the person holding the property;

~~(c)~~(2) whether any of the property consists of earnings;

~~(c)~~(3) the amount of the judgment and the amount due on the judgment;

~~(c)~~(4) the name, address and phone number of any person known to the plaintiff to claim an interest in the property; and

~~(c)~~(5) whether~~that~~ the plaintiff has attached or will serve the garnishee fee or the fee will be deducted in accordance with~~established by~~ Utah Code Section 78A-2-216.

(d) Defendant identification. The plaintiff must~~shall~~ submit with the affidavit or application a copy of the judgment information statement described in Utah Code Section 78B-5-201 or the defendant's name and address and, if known, the last four digits of the defendant's social security number and driver license number and state of issuance.

(e) Interrogatories. The plaintiff must~~shall~~ submit with the affidavit or application interrogatories to the garnishee inquiring:

~~(c)~~(1) whether the garnishee is indebted to the defendant and the nature of the indebtedness;

~~(c)~~(2) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location and estimated value of the property;

~~(c)~~(3) whether the garnishee knows of any property of the defendant in the possession or under the control of another, and, if so, the nature, location and estimated value of the property and the name, address and phone number of the person with possession or control;

~~(c)~~(4) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, a designation as to whom the claim relates, and the amount deducted;

~~(c)~~(5) the date and manner of the garnishee's service of papers upon the defendant and any third persons;

~~(c)~~(6) the dates on which previously served writs of continuing garnishment were served; and

~~(c)~~(7) any other relevant information plaintiff may desire, including the defendant's position, rate and method of compensation, pay period, and the computation of the amount of defendant's disposable earnings.

(f) Content of writ; priority. The writ will ~~shall~~ instruct the garnishee to complete the steps in subsection (g) and instruct the garnishee how to deliver the property. Several writs may be issued at the same time so long as only one garnishee is named in a writ.

Priority among writs of garnishment is in order of service. A writ of garnishment of earnings applies to the earnings accruing during the pay period in which the writ is effective.

(g) Garnishee's responsibilities. The writ willshall direct the garnishee to complete the following within seven business days of service of the writ upon the garnishee:

(g)(1) answer the interrogatories under oath or affirmation;

(g)(2) serve the answers on the plaintiff; and

(g)(3) serve the writ, answers, notice of exemptions and two copies of the reply form upon the defendant and any other person shown by the records of the garnishee to have an interest in the property.

The garnishee may amend answers to interrogatories to correct errors or to reflect a change in circumstances by serving the amended answers in the same manner as the original answers.

(h) Reply to answers; request for hearing.

(h)(1) The plaintiff or defendant may file and serve upon the garnishee a reply to the answers, a copy of the garnishee's answers, and a request for a hearing. The reply mustshall be filed and served within 14 days after service of the answers or amended answers, but the court may deem the reply timely if filed before notice of sale of the property or before the property is delivered to the plaintiff. The reply may:

(h)(1)(A) challenge the issuance of the writ;

(h)(1)(B) challenge the accuracy of the answers;

(h)(1)(C) claim the property or a portion of the property is exempt; or

(h)(1)(D) claim a set off.

(h)(2) The reply is deemed denied, and the court willshall conduct an evidentiary hearing as soon as possible and not to exceed 14 days.

(h)(3) If a person served by the garnishee fails to reply, as to that person:

(h)(3)(A) the garnishee's answers are deemed correct; and

(h)(3)(B) the property is not exempt, except as reflected in the answers.

(i) Delivery of property. A garnishee must~~shall~~ not deliver property until the property is due the defendant. Unless otherwise directed in the writ, the garnishee must~~shall~~ retain the property until 21 days after service by the garnishee under subsection (g). If the garnishee is served with a reply within that time, the garnishee must~~shall~~ retain the property and comply with the order of the court entered after the hearing on the reply. Otherwise, the garnishee must~~shall~~ deliver the property as provided in the writ.

(j) Liability of garnishee.

~~(j)~~(1) A garnishee who acts in accordance with this rule, the writ or an order of the court is released from liability, unless answers to interrogatories are successfully controverted.

~~(j)~~(2)(A) If the garnishee fails to comply with this rule, the writ or an order of the court, the court may order the garnishee to appear and show cause why the garnishee should not be ordered to pay such amounts as are just, including the value of the property or the balance of the judgment, whichever is less, and reasonable costs and attorney fees incurred by parties as a result of the garnishee's failure. If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

~~(j)(2)~~(B) The creditor must attach to the motion for an order to show cause a statement that the creditor has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

~~(j)~~(3) No person is liable as garnishee by reason of having drawn, accepted, made or endorsed any negotiable instrument that is not in the possession or control of the garnishee at the time of service of the writ.

~~(j)~~(4) Any person indebted to the defendant may pay to the officer the amount of the debt or so much as is necessary to satisfy the writ, and the officer's receipt discharges the debtor for the amount paid.

~~(j)~~(5) A garnishee may deduct from the property any liquidated claim against the plaintiff or defendant.

(k) Property as security.

~~(k)~~(1) If property secures payment of a debt to the garnishee, the property need not be applied at that time but the writ remains in effect, and the property remains subject to being applied upon payment of the debt. If property secures payment of

a debt to the garnishee, the plaintiff may obtain an order authorizing the plaintiff to buy the debt and requiring the garnishee to deliver the property.

~~(k)~~(2) If property secures an obligation that does not require the personal performance of the defendant and that can be performed by a third person, the plaintiff may obtain an order authorizing the plaintiff or a third person to perform the obligation and requiring the garnishee to deliver the property upon completion of performance or upon tender of performance that is refused.

(l) Writ of continuing garnishment.

~~(l)~~(1) After final judgment, the plaintiff may obtain a writ of continuing garnishment against any non-exempt periodic payment. All provisions of this rule apply to this subsection, but this subsection governs over a contrary provision.

~~(l)~~(2) A writ of continuing garnishment applies to payments to the defendant from the effective date of the writ until the earlier of the following:

~~(l)(2)~~(A) one year;

~~(l)(2)~~(B) 120 days after service of a second or subsequent writ of continuing garnishment;

~~(l)(2)~~(C) the last periodic payment;

~~(l)(2)~~(D) the judgment is stayed, vacated or satisfied in full; or

~~(l)(2)~~(E) the writ is discharged.

~~(l)~~(3) Within seven days after the end of each payment period, the garnishee must~~shall~~ with respect to that period:

~~(l)(3)~~(A) answer the interrogatories under oath or affirmation;

~~(l)(3)~~(B) serve the answers to the interrogatories on the plaintiff, the defendant and any other person shown by the records of the garnishee to have an interest in the property; and

~~(l)(3)~~(C) deliver the property as provided in the writ.

~~(l)~~(4) Any person served by the garnishee may reply as in subsection (g), but whether to grant a hearing is within the judge's discretion.

~~(l)~~(5) A writ of continuing garnishment issued in favor of the Office of Recovery Services or the Department of Workforce Services of the state of Utah to recover overpayments:

~~(l)~~(5)(A) is not limited to 120 days;

~~(l)~~(5)(B) has priority over other writs of continuing garnishment; and

~~(l)~~(5)(C) if served during the term of another writ of continuing garnishment, tolls that term and preserves all priorities until the expiration of the state's writ.

Garnishment Fee Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill addresses a fee for a writ of garnishment.

Highlighted Provisions:

This bill:

- modifies the garnishee fee for a writ of garnishment from a court; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-507, as last amended by Laws of Utah 2025, Chapters 59, 526

78A-2-216, as last amended by Laws of Utah 2008, Chapter 149 and renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63A-3-507** is amended to read:

63A-3-507 . Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of or under the control of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or

control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6)(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i)(A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7)(a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9)(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant that is due to the garnishee at the time of service.

(11)(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12)(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments

were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee[~~, as provided in this Subsection (16),~~] in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be [~~remitted~~] sent to the office under the administrative garnishment order[~~,~~] if the amount to be [~~remitted~~] sent exceeds the amount of the fee.

(c) If the amount to be [~~remitted~~] sent to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be [~~remitted~~] sent does not exceed the amount of the garnishee fee; and

(ii)(A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office[~~,~~] and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay [~~remitting~~] sending any amount to the office until the amount to be [~~remitted~~] sent exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 2. Section **78A-2-216** is amended to read:

78A-2-216 . Fees for writ of garnishment -- Single or continuing.

[~~(1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:~~]

[~~(a) $10 for a single garnishment; and~~]

[~~(b) $25 for a continuing garnishment.~~]

[~~(2) The creditor shall pay the fee directly to the garnishee.~~]

(1) A garnishee under a writ of garnishment from a court is entitled to receive a garnishee fee in the amount of:

(a) $10 if the writ of garnishment is for a single garnishment; and

(b) $25, as a one-time fee, if the writ of garnishment is for a continuing garnishment.

(2) A garnishee may deduct the amount of a garnishee fee described in Subsection (1) from the amount to be sent to the creditor under the writ of garnishment if the amount to be sent exceeds the amount of the fee.

(3) If the amount to be sent to the creditor under a writ of garnishment does not exceed the garnishee fee described in Subsection (1):

(a) the garnishee shall notify the creditor that the amount to be sent does not exceed the amount of the garnishee fee; and

(b)(i) for a writ of garnishment that is a single garnishment:

(A) the garnishee shall return the writ of garnishment to the creditor; and

(B) the creditor shall pay the garnishee fee to the garnishee; or

(ii) for a writ of garnishment that is a continuing garnishment, the garnishee shall delay sending any amount until the amount to be sent exceeds the garnishee fee.

[~~(3)~~] (4) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed $1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.

[~~(4)~~] (5) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:

(a) similarities between the person and the actual judgment debtor, including:

(i) the spelling of each person's name;

(ii) addresses;

(iii) physical descriptions;

(iv) identifying information, including Social Security number or driver license number; and

(v) family status;

(b) whether previous contact was made to determine whether the person was the judgment debtor;

(c) how the determination of who the judgment debtor was, was made; and

(d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.

[~~(5)~~] (6)(a) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days.

(b) The response shall indicate whether or not the defendant identified in the documentation is a current employee.

[~~(6)~~] (7) A plaintiff is not liable for a violation of Subsection [~~(3)~~] (4) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Section 3. **Effective Date.**

This bill takes effect on May 6, 2026.

Effective 5/6/2026

78A-2-216 Fees for writ of garnishment -- Single or continuing.

(1) A garnishee under a writ of garnishment from a court is entitled to receive a garnishee fee in the amount of:
  (a) $10 if the writ of garnishment is for a single garnishment; and
  (b) $25, as a one-time fee, if the writ of garnishment is for a continuing garnishment.
(2) A garnishee may deduct the amount of a garnishee fee described in Subsection (1) from the amount to be sent to the creditor under the writ of garnishment if the amount to be sent exceeds the amount of the fee.
(3) If the amount to be sent to the creditor under a writ of garnishment does not exceed the garnishee fee described in Subsection (1):
  (a) the garnishee shall notify the creditor that the amount to be sent does not exceed the amount of the garnishee fee; and
  (b)
    (i) for a writ of garnishment that is a single garnishment:
      (A) the garnishee shall return the writ of garnishment to the creditor; and
      (B) the creditor shall pay the garnishee fee to the garnishee; or
    (ii) for a writ of garnishment that is a continuing garnishment, the garnishee shall delay sending any amount until the amount to be sent exceeds the garnishee fee.
(4) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed $1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.
(5) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:
  (a) similarities between the person and the actual judgment debtor, including:
    (i) the spelling of each person's name;
    (ii) addresses;
    (iii) physical descriptions;
    (iv) identifying information, including Social Security number or driver license number; and
    (v) family status;
  (b) whether previous contact was made to determine whether the person was the judgment debtor;
  (c) how the determination of who the judgment debtor was, was made; and
  (d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.
(6)
  (a) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days.
  (b) The response shall indicate whether or not the defendant identified in the documentation is a current employee.
(7) A plaintiff is not liable for a violation of Subsection (4) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Amended by Chapter 237, 2026 General Session

Tab 5

Rule 58A. Entry of judgment; abstract of judgment.

Effective: ~~***12/9/2025***~~

(a) Separate document required. Every judgment and amended judgment must be set out in a separate document ordinarily titled "Judgment"—or, as appropriate, "Decree."

(b) Separate document not required. A separate document is not required for an order disposing of a post-judgment motion:

(1) for judgment under Rule 50(b);

(2) to amend or make additional findings under Rule 52(b);

(3) for a new trial, or to alter or amend the judgment, under Rule 59;

(4) for relief under Rule 60; or

(5) for attorney fees under Rule 73.

(c) Preparing a judgment.

(1) Preparing and serving a proposed judgment. The prevailing party or a party directed by the court must prepare and serve on the other parties a proposed judgment for review and approval as to form. The proposed judgment must~~shall~~ be served within 14 days after the jury verdict or after the court's decision. If the prevailing party or party directed by the court fails to timely serve a proposed judgment, any other party may prepare a proposed judgment and serve it on the other parties for review and approval as to form.

(2) Effect of approval as to form. A party's approval as to form of a proposed judgment certifies that the proposed judgment accurately reflects the verdict or the court's decision. Approval as to form does not waive objections to the substance of the judgment.

(3) Objecting to a proposed judgment. A party may object to the form of the proposed judgment by filing an objection within 7 days after the judgment is served.

(4) Filing proposed judgment. The party preparing a proposed judgment must file it:

(A) after all other parties have approved the form of the judgment; (The party preparing the proposed judgment must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.)

(B) after the time to object to the form of the judgment has expired; (The party preparing the proposed judgment must also file a certificate of service of the proposed judgment.) or

(C) within 7 days after a party has objected to the form of the judgment. (The party preparing the proposed judgment may also file a response to the objection.)

(d) Judge's signature; judgment filed with the clerk. Except as provided in paragraph ~~(h)~~ and Rule 55(b)(1), all judgments must be signed by the judge and filed with the clerk. The clerk must promptly record all judgments in the docket.

(e) Time of entry of judgment.

(1) If a separate document is not required, a judgment is complete and is entered when it is signed by the judge and recorded in the docket.

(2) If a separate document is required, a judgment is complete and is entered at the earlier of these events:

(A) the judgment is set out in a separate document signed by the judge and recorded in the docket; or

(B) 150 days have run from the clerk recording the decision, however designated, that provides the basis for the entry of judgment.

(f) Award of attorney fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.

(g) Notice of judgment. The party preparing the judgment must~~shall~~ promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement.

(h) Judgment after death of a party. If a party dies after a verdict or decision upon any issue of fact and before judgment, judgment may nevertheless be entered.

(i) Judgment by confession. If a judgment by confession is authorized by statute, the party seeking the judgment must file with the clerk a statement, verified by the defendant, as follows:

Commented [SS1]: I'm not sure I'm understanding the reference to paragraph (h) here. Was paragraph (h) supposed to say that a judge didn't have to sign the judgment?

Commented [AM2R1]: I could be wrong, but I think the reference to paragraph (h) is intended to be a reference to paragraph (i) concerning judgments by confession, which are signed by the clerk rather than the judge (as I read it).

Commented [SS3]: There doesn't appear to be a Rule 73(g). I'm not certain what this was supposed to reference.

Commented [AM4R3]: This is also unclear to me, but I also wanted to flag that Rule 58A(f) also references Rule 73(g).

Based on some cursory AI research (which I'll send), it looks like this reference is an artifact that should be deleted.

(1) If the judgment is for money due or to become due, the statement must concisely state the claim and that the specified sum is due or to become due.

(2) If the judgment is for the purpose of securing the plaintiff against a contingent liability, the statement must state concisely the claim and that the specified sum does not exceed the liability.

(3) The statement must authorize the entry of judgment for the specified sum. The clerk must sign the judgment for the specified sum.

(j) Abstract of judgment. The clerk may abstract a judgment by a signed writing under seal of the court that:

(1) identifies the court, the case name, the case number, the judge or clerk that signed the judgment, the date the judgment was signed, and the date the judgment was recorded in the registry of actions and the registry of judgments;

(2) states whether the time for appeal has passed and whether an appeal has been filed;

(3) states whether the judgment has been stayed and when the stay will expire; and

(4) if the language of the judgment is known to the clerk, quotes verbatim the operative language of the judgment or attaches a copy of the judgment.

Advisory Committee Notes

2015 amendments

The 2015 amendments to Rule 58A adopt the requirement, found in Rule 58 of the Federal Rules of Civil Procedure, that a judgment be set out in a separate document. In the past, problems have arisen when the district court entered a decision with dispositive language, but without the other formal elements of a judgment, resulting in uncertainty about whether the decision started the time for appeals. This problem was compounded by uncertainty under Rule 7 about whether the decision was the court's final ruling on the matter or whether the prevailing party was expected to prepare an order confirming the decision.

The 2015 amendments of Rule 7, Rule 54 and Rule 58A are intended to reduce this confusion by requiring "that there be a judgment set out on a separate document—distinct from any opinion or memorandum—which provides the basis for the entry of

judgment." See Advisory Committee Notes to 1963 Amendments to Fed. R. Civ. P. 58. Courts and practitioners are encouraged to use appropriate titles with separate documents intended to operate as judgments, such as "Judgment" or "Decree," and to avoid using such titles on documents that are not appealable. The parties should consider the form of judgment included in the Appendix of Forms. On the question of what constitutes a separate document, the Committee refers courts and practitioners to existing case law interpreting Fed. R. Civ. P. 58. For example, *In re Cendant Corp.*, 454 F.3d 235, 242-244 (3d Cir. 2006) offers three criteria:

1) the judgment must be set forth in a document that is independent of the court's opinion or decision;

2) it must contain ordering clauses stating the relief to which the prevailing party is entitled, and not merely refer to orders made in other documents or state that a motion has been granted; and

3) it must substantially omit recitation of facts, procedural history, and the reasons for disposing of the parties' claims.

While "some trivial departures" from these criteria—such as a one-sentence explanation of reasoning, a single citation to authority, or a reference to a separate memorandum decision—"must be tolerated in the name of common sense," any explanation must be "very sparse." *Kidd v. District of Columbia*, 206 F.3d 35, 39 (D.C. Cir. 2000).

The concurrent amendments to Rule 7 remove the separate document requirement formerly applicable to interlocutory orders. Henceforward, the separate document requirement will apply only to judgments, a change that should reduce the tendency to confuse judgments with other orders. Rule 7 has also been amended to modify the process by which orders on motions are prepared. The process for preparing judgments is the same.

Under amended Rule 7(j), a written decision, however designated, is complete—is the judge's last word on the motion—when it is signed, unless the court expressly requests a party to prepare an order confirming the decision. But this should not be confused with the need to prepare a separate judgment when the decision has the effect of disposing of all claims in the case. If a decision disposes of all claims in the action, a separate judgment is required whether or not the court directs a party to prepare an order confirming the decision.

State Rule 58A is similar to Fed. R. Civ. P. 58 in determining the time of entry of judgment when a separate document is required but not prepared. This situation involves the

"hanging appeals" problem that the Supreme Court asked this Committee to address in *Central Utah Water Conservancy District v. King*, 2013 UT 13, ¶27. Under the 2015 amendments, if a separate document is required but is not prepared, judgment is deemed to have been entered 150 days from the date the decision—or the order confirming the decision—was entered on the docket.

2016 amendments

The 2016 amendments in paragraphs (b) and (f) are part of a coordinated effort with the Advisory Committee on the Rules of Appellate Procedure to change the effect of a motion for attorney fees on the appealability of a judgment. The combined amendments of this rule and Rule of Appellate Procedure4 effectively overturn *ProMax Development Corp. v. Raile*, 2000 UT 4, 998 P.2d 254 and *Meadowbrook, LLC v. Flower*, 959 P.2d 115 (Utah 1998). Paragraph (f) also addresses any doubts about the enforceability of a judgment while a motion for attorney fees is pending.

Under *ProMax* and *Meadowbrook* a judgment was not final until the claim for attorney fees had been resolved. An appeal filed before a claim for attorney fees had been resolved was premature and would be dismissed. Under the 2016 amendments, the time to appeal runs from the order disposing of a timely motion for attorney fees, just as it does timely motions under Rules 50, 52 and 59. The 2016 amendments to appellate Rule 4(b) also add a motion under Rule 60(b), but only if the motion is filed within 28 days after the judgment.

If a notice of appeal is filed before the order resolving the timely motion, the appeal is not dismissed; it is treated as filed on the day the order ultimately is entered, although the party must file an amended notice of appeal to appeal from the order disposing of the motion.

Although this change overturns *ProMax* and *Meadowbrook*, it is not the same as the federal rule. Under Federal Rule of Civil Procedure 58(e):

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4 (a)(4) as a timely motion under Rule 59.

In other words, a motion for attorney fees extends the time to appeal, but only if the trial court judge rules that it does. In the 2016 amendment of the state rules, a timely motion for attorney fees automatically has that effect.

Although the 2016 amendments change a policy of long standing in the Utah state courts, the amendments will help to protect the appellate rights of parties and avoid the cost of premature appeals.

Research question

Find cases discussing Utah Rule of Civil Procedure 73(g), which doesn't appear in the current Utah Rules of Civil Procedure.

Expanded report • Utah (State & Fed.)

Summary

Utah Rule of Civil Procedure 73(g) does not appear in the current Utah Rules of Civil Procedure for two distinct reasons. First, the original Utah Rule 73 — a comprehensive appeals rule modeled on the Federal Rules of Civil Procedure — was repealed in 1985 when Utah adopted its separate Rules of Appellate Procedure. That original Rule 73 contained subsections (a) through (m), with subsections (a) through (g) governing appeals from district courts to the Utah Supreme Court, and subsections (h) through (m) governing appeals from city or justice courts to district courts. Rule 73(g), as part of that framework, addressed the docketing of appeals to the Supreme Court. Second, the current Utah Rule 73 — an attorney fees rule enacted in 2019 — contains only subsections (a) through (f), yet Rule 58A(f) of the current Utah Rules of Civil Procedure cross-references a "Rule 73(g)" that does not exist, apparently pointing to a provision that was contemplated but never enacted. No Utah state court decision has been found that specifically cites Utah Rule 73(g) by name; the cases that discuss the old Rule 73 framework address primarily subsections (a) and (h). Federal courts in the Tenth Circuit, however, frequently cited the analogous federal Rule 73(g) — which required the record on appeal to be filed and the action docketed within 40 days of the notice of appeal — in cases arising from the District of Utah.

The Historical Utah Rule 73 and Its Subsections (a)–(g)

The original Utah Rule of Civil Procedure 73 was patterned after the Federal Rules of Civil Procedure and served as the primary vehicle for appeals from district courts to the Utah Supreme Court. The Utah Supreme Court in Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) provided the most direct description of the rule's structure, explaining that "sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court." This structural division is critical: Rule 73(g) was one of seven subsections governing the mechanics of taking an appeal from a district court to the Utah Supreme Court.

The most frequently litigated subsection was Rule 73(a), which required a notice of appeal to be filed within one month from the entry of judgment. The Utah Supreme Court in Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) held that Rule 73(a) was intended to make failure to file a timely notice of appeal jurisdictional, and that such failure could be noticed by the reviewing court sua sponte. In Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979), the Utah Supreme Court noted that

the amended Rule 73 did not appear in the published Utah Rules of Civil Procedure as of 1979, prompting the court to restate the law on the time for taking an appeal. The court confirmed that Rule 73(a) required a notice of appeal to be filed within one month from the date of entry of the judgment in the Register of Actions. In Nelson v. Stoker, 669 P.2d 390 (Utah 1983), the court further elaborated that the trial court had no obligation to inform parties when a judgment had been executed and docketed, creating practical difficulties in knowing when the one-month period began to run.

Rule 73(a) also interacted with post-trial motions. In Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989), the Utah Supreme Court — citing "Utah R.Civ.P., 73(a) (repealed 1985)" — confirmed that the filing of post-trial motions under Rules 50(b), 52(b), or 59 terminated the time for filing a notice of appeal until an order was entered granting or denying such motions. This case is significant because it expressly confirms the repeal date of 1985 for the old Rule 73.

The subsections of old Rule 73 beyond (a) addressed related aspects of the appeals process. Rule 73(d) governed supersedeas bonds, requiring them to be conditioned for satisfaction of the judgment in full together with costs, interest, and damages for delay. In U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985), the Utah Supreme Court applied Rule 73(d) to hold that a supersedeas bond must be intended to conform to the rule's requirements and cover the judgment in full. In Ludahl v. Larson, 586 P.2d 439 (Utah 1978), the court held that an appellant who failed to apply for a supersedeas bond and failed to file the bond had no basis to complain about the court's failure to stay execution of the judgment. In Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982), the Utah Supreme Court granted leave to permit the district court to rule on an objection to the sufficiency of a supersedeas bond even after the record had been transmitted to the Supreme Court, citing Rules 73(d) and (e).

Rule 73(h) governed appeals from city or justice courts to district courts. In Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965), the Utah Supreme Court held that payment of fees for docketing an appeal in the district court under Rule 73(h) was jurisdictional, and that the filing of the notice of appeal and payment of fees within the time allowed were the only requirements necessary for the court to have jurisdiction.

What Rule 73(g) Covered

Based on the structure of the old Rule 73 and its federal analog, Rule 73(g) addressed the docketing of the record on appeal with the Utah Supreme Court. The federal Rule 73(g) — which the Utah rule mirrored — required that the record on appeal be filed with the appellate court and the action there docketed within 40 days from the date of the notice of appeal. This is confirmed by the Tenth Circuit's description of the federal rule in Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941), which stated that federal Rule 73(g) requires the record on appeal to be filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal. The Wright & Miller treatise further confirms that prior to 1968, the time for taking an appeal and for filing the record

on appeal was controlled solely by the provisions of Rule 73, and that Rule 6(b) prohibited extending the time for any act under Rules 73(a) and (g) § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.).

No Utah state court decision has been found that specifically cites Utah Rule 73(g) by name. The absence of such citations is consistent with the rule's function: docketing requirements were largely ministerial, and disputes about them typically arose in the context of motions to dismiss for failure to timely docket, which were more commonly addressed under the companion Rule 75 (governing the record on appeal) or under the court's own rules. The Utah Supreme Court's cases in this era more frequently addressed the jurisdictional notice-of-appeal requirement in Rule 73(a) and the supersedeas bond provisions in Rule 73(d).

Repeal of the Old Rule 73 in 1985

The entire old Rule 73 — including subsection (g) — was repealed in 1985 when Utah adopted its Rules of Appellate Procedure. As Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) confirms, the repeal occurred in 1985. The functions previously served by old Rule 73 were transferred to the Utah Rules of Appellate Procedure, particularly Rule 4 (governing the time for appeal), Rule 9 (governing docketing statements), and Rule 11 (governing the record on appeal). The parallel transition had already occurred at the federal level in 1968, when the Federal Rules of Appellate Procedure were adopted and former federal Rule 73(g)'s 40-day docketing requirement was absorbed into Federal Rule of Appellate Procedure 11(a), which similarly requires transmission of the record within 40 days after the filing of the notice of appeal § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.).

The Current Rule 73 and the Phantom Rule 73(g) Cross-Reference

The current Utah Rule 73 — effective May 1, 2026 in its most recent version — is an entirely different rule governing attorney fees. It contains subsections (a) through (f) only, covering the time for claiming fees, the content of motions, supporting affidavits, liability determinations, fees claimed in complaints, and a schedule of fees for various proceedings Utah R. Civ. P. 73. There is no subsection (g).

Yet Rule 58A(f) of the current Utah Rules of Civil Procedure contains a cross-reference to a nonexistent provision: "Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4." Utah R. Civ. P. 58A The Utah Court of Appeals in McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 analyzed Rule 58A(f) in detail, explaining that it is addressed to situations where a party files a post-judgment motion for attorney fees, and that it mirrors the language of Utah Rule of Appellate Procedure 4(b)(1)(F). The court noted that Rule 58A(f) expressly references Rule 4 of

the Rules of Appellate Procedure for determining the time to file a notice of appeal.

The substantive exception that Rule 58A(f)'s reference to "Rule 73(g)" appears to contemplate is codified in Utah Code Ann. § 78A-3-102(3)(c) Utah Code Ann. § 78A-3-102 (West), which provides that in cases involving an election or voting contest or the establishment of political district boundaries, a judgment is appealable to the Utah Supreme Court even if a party has filed a motion or claim for attorney fees under Rule 73 and the district court has not yet entered a dispositive order on that motion. This statutory provision effectively creates the exception that a "Rule 73(g)" would have codified within the rules themselves. The cross-reference in Rule 58A(f) thus appears to be a drafting artifact pointing to a provision that was contemplated for inclusion in Rule 73 but was never enacted, with the substantive exception instead remaining in the Utah Code.

Federal Cases Discussing Rule 73(g) in the Utah Context

Several Tenth Circuit decisions arising from the District of Utah applied the federal Rule 73(g)'s docketing requirement. In Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961), an appeal from the United States District Court for the District of Utah, the Tenth Circuit denied a motion to docket an appeal out of time where the record had not been docketed within the time required by federal Rule 73(g) and the appellant had failed to comply with a conditional order requiring the filing of a supersedeas bond. In Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941), the Tenth Circuit dismissed an appeal where the appellants had not served a copy of their designation of record on the appellees and had not filed a concise statement of points on appeal, holding that they had not complied with federal Rules 73(g) and 75(a) and (d). In Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964), the Tenth Circuit held that failure to file the record on appeal within 40 days as required by federal Rule 73(g) and failure to pay the docket fee did not deprive the court of jurisdiction, but constituted grounds for such action as the court deemed appropriate — including dismissal. The United States Supreme Court in Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) addressed the federal Rule 73(g) docketing requirement directly, holding that a Circuit Court of Appeals properly exercised its discretion in denying a motion to dismiss an appeal for failure to docket within the time required by federal Rule 73(g), where the appellants had obtained an extension of time from a single circuit judge to file the record on appeal, even though the extension was obtained more than 90 days after the notice of appeal was filed.

Practical Implications

The absence of Utah Rule 73(g) from the current rules has two distinct practical dimensions. For practitioners researching historical Utah appellate procedure from before 1985, the old Rule 73 framework — including subsection (g)'s docketing

requirements — governed the mechanics of perfecting an appeal to the Utah Supreme Court. Those requirements have since been superseded by the Utah Rules of Appellate Procedure, particularly Rules 3, 4, 9, and 11, which now govern the filing of notices of appeal, docketing statements, and the record on appeal.

For practitioners working with the current rules, the cross-reference in Rule 58A(f) to "Rule 73(g)" creates a potential trap. The provision that Rule 58A(f) appears to except — relating to election and voting contests — is actually codified in Utah Code Ann. § 78A-3-102(3)(c), not in Rule 73. Practitioners in election contest cases should be aware that the normal rule tolling the appeal period while an attorney fees motion is pending does not apply; the judgment remains immediately appealable to the Utah Supreme Court regardless of any pending Rule 73 attorney fees motion.

Recent Developments

The current Utah Rule 73 was most recently amended effective May 1, 2026, updating the schedule of attorney fees allowed without a supporting affidavit in various proceedings Utah R. Civ. P. 73. The rule continues to contain only subsections (a) through (f), and the cross-reference in Rule 58A(f) to "Rule 73(g)" remains unresolved. In W. Mortg. & Realty Co. v. Walker, 2026 UT 30, decided August 20, 2026, the Utah Supreme Court clarified that Rule 73 is a post-trial mechanism for claiming attorney fees awarded under statute or contract, and does not require a party to claim fees after trial when attorney fees are sought as consequential damages. In Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152, decided May 14, 2026, the Utah Court of Appeals analyzed Rule 73(a)'s requirements in detail, holding that the rule does not create a general requirement for a party contesting an attorney fees award to file a document specifically titled as an "objection."

Related Issues

- Whether the cross-reference in Rule 58A(f) to "Rule 73(g)" constitutes a drafting error that should be corrected by the Utah Supreme Court's advisory committee on civil rules
- The interaction between Rule 73's attorney fees provisions and the finality of judgment for purposes of appeal under Utah Rule of Appellate Procedure 4(b)(1)(F)
- The historical relationship between the old Utah Rule 73 appeals framework and the current Utah Rules of Appellate Procedure, including whether any substantive differences exist between the old and new regimes

- The application of Utah Code Ann. § 78A-3-102(3)(c)'s election contest exception to the attorney fees tolling rule, and whether that exception should be codified in Rule 73 itself

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Assertion #1	Verify	Explore more
Utah Rule of Civil Procedure 73(g) does not appear in the current Utah Rules of Civil Procedure for two distinct reasons. Utah R. Civ. P. 73	While the statement's core premise—that Rule 73(g) does not appear in current Utah Rules of Civil Procedure—finds support in reference material showing the current rule contains only subsections (a) through (f), the statement's assertion of 'two distinct reasons' for this absence appears to overreach what can be verified from the provided sources, as the reference material does not substantiate the historical 1985 repeal claim or any cross-reference in Rule 58A(f). **Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:**	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

(b) Content of Motion. The motion must: (5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee, and a statement that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

(e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 5:

	Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #2	**Verify**	**Explore more**
First, the original Utah Rule 73 — a comprehensive appeals rule modeled on the Federal Rules of Civil Procedure — was repealed in 1985 when Utah adopted its separate Rules of Appellate Procedure. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) Utah R. Civ. P. 73	**Authority found** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). See: Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) See: Utah R. Civ. P. 73	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Parallel Search** Cases with similar language
Assertion #3	**Verify**	**Explore more**
That original Rule 73 contained subsections (a) through (m), with subsections (a) through (g) governing appeals from district courts to the Utah Supreme Court, and subsections (h) through (m) governing appeals from city or justice courts to district courts.	**Authority found** The parties disagree on which part, if any, of Rule 73 shall apply to this situation. Sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court.	**Key Numbers** 217k1070 Insurance > Judicial remedies and review **Parallel Search** Cases with

Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	See: Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	similar language
Assertion #4	**Verify**	**Explore more**
Rule 73(g), as part of that framework, addressed the docketing of appeals to the Supreme Court. Utah R. Civ. P. 73 Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	**Authority found** See: Utah R. Civ. P. 73 See: Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	**Parallel Search** Cases with similar language
Assertion #5	**Verify**	**Explore more**
Second, the current Utah Rule 73 — an attorney fees rule enacted in 2019 — contains only subsections (a) through (f), yet Rule 58A(f) of the current Utah Rules of Civil Procedure cross-references a "Rule 73(g)" that does not exist, apparently pointing to a provision that was contemplated but never enacted. Utah R. Civ. P. 73	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

authorizing the award, and state that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

(f) Fees. Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in this paragraph, and only where the augmented fees sought exceed those fees that were already awarded.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 5:

(b) Content of Motion. The motion must: (5) disclose if the attorney fees are for services rendered to an assignee or a

	debt collector, the terms of any agreement for sharing the fee, and a statement that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context	
Assertion #6	**Verify**	**Explore more**
Second, the current Utah Rule 73 — an attorney fees rule enacted in 2019 — contains only subsections (a) through (f), yet Rule 58A(f) of the current Utah Rules of Civil Procedure cross-references a "Rule 73(g)" that does not exist, apparently pointing to a provision that was contemplated but never enacted. Utah R. Civ. P. 58A	**Supporting passage 1:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73. Utah R. Civ. P. 58A - Show in Context **Supporting passage 2:** (f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4. Utah R. Civ. P. 58A - Show in Context **Supporting passage 3:** (b) Separate Document Not Required. A separate document	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	is not required for an order disposing of a post-judgment motion: (2) to amend or make additional findings under Rule 52(b); Utah R. Civ. P. 58A - Show in Context **Supporting passage 4:** (g) Notice of Judgment. The party preparing the judgment shall promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement. Utah R. Civ. P. 58A - Show in Context **Supporting passage 5:** (4) Filing Proposed Judgment. The party preparing a proposed judgment must file it: (C) within 7 days after a party has objected to the form of the judgment. (The party preparing the proposed judgment may also file a response to the objection.) Utah R. Civ. P. 58A - Show in Context	
Assertion #7	**Verify**	**Explore more**
No Utah state court decision has been found	**Authority found**	**Key Numbers** 102k935 Costs,

that specifically cites Utah Rule 73(g) by name; the cases that discuss the old Rule 73 framework address primarily subsections (a) and (h). Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) Utah R. Civ. P. 73	The main question presented is whether the payment of the fees for docketing the appeal in the District Court is jurisdictional. This was answered in the affirmative by this court in Bish's Sheet Metal Co. v. Luras wherein it was stated: It [was] apparent that [Rule 73(h), U.R.C.P]. provides that an appeal must be taken within one month after notice of entry of judgment and the appellant must serve and file a notice of appeal upon the adverse party. It is equally clear by the provisions of [Rule 73(l), U.R.C.P]., that the filing of the notice of the appeal and the payment of the fees therefor within the time allowed are the only requirements necessary for the court to have jurisdiction. See: Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) See: Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) See: Utah R. Civ. P. 73	Fees, and Sanctions > Payment of fees on appealing or seeking review 30k348(2) Appeal and Error > Sufficiency of notice or copy and service thereof **Parallel Search** Cases with similar language
Assertion #8	**Verify**	**Explore more**
Federal courts in the Tenth Circuit, however, frequently cited the analogous federal Rule 73(g) — which required the record on appeal to be filed and the action docketed within 40	**Authority found** See: Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961) See: Lopata v. Handler, 121 F.2d	**Key Numbers** 170Bk3435 Federal Courts > Effect of delay and excuses in general

days of the notice of appeal — in cases arising from the District of Utah. Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961) Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964)	938 (10th Cir. 1941) See: Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964)	**Parallel Search** Cases with similar language
Assertion #9	**Verify**	**Explore more**
The original Utah Rule of Civil Procedure 73 was patterned after the Federal Rules of Civil Procedure and served as the primary vehicle for appeals from district courts to the Utah Supreme Court. Utah R. Civ. P. 73	The statement appears to conflate the original function of Utah Rule of Civil Procedure 73 with its current codification, as the provided reference material addresses only attorney fees procedures rather than appellate mechanisms, and contains no historical documentation supporting claims about the rule's original design or federal patterning. **Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:**	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

(b) Content of Motion. The motion must: (5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee, and a statement that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

(2) Fees Upon Entry of Judgment After Contested Proceeding. When a party seeks a judgment, the responding party contests the judgment by presenting either evidence or argument at a hearing, and the party seeking the judgment has established its right to attorney fees, then the request for judgment may include a request for attorney fees. The clerk or the court will allow any amount requested up to $1,020.00 for those attorney fees without a supporting affidavit.

	Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (B) files a motion under Rules 64(c)(2) or 58C or under Utah Code section 35A-4-314, Utah R. Civ. P. 73 - Show in Context	
Assertion #10	**Verify**	**Explore more**
The Utah Supreme Court in Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U.S. provided the most direct description of the rule's structure, explaining that "sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court." Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	**Supporting passage 1:** Plaintiff, Utah Chiropractic Association, Inc., appeals from an order of the district court dismissing plaintiff's appeal from a decision of the Insurance Commissioner. The district court ruled that since plaintiff failed to file its petition for review within one month of the Commissioner's decision, the court was without jurisdiction to entertain the appeal. The sole question before this court is, to what extent do the Utah Rules of Civil Procedure govern the timeliness of appeals from the Insurance Commissioner's decisions to the District Court of Salt Lake County? We reverse, and hold plaintiff filed its petition for review within the time allowed by the rules. Costs to plaintiff. All statutory references are to Utah	**Key Numbers** 217k1070 Insurance > Judicial remedies and review **Citing References** Cases citing Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S. **Parallel Search** Cases with similar language

Code Annotated, 1953.

Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) - Show in Context

Supporting passage 2:

The parties disagree on which part, if any, of Rule 73 shall apply to this situation. Sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court. The difficulty with these sections is that neither specifically applies to an appeal from the Insurance Commissioner, who makes no “entry” of his decision in a register of actions or judgment docket. It is helpful to look at section 31-2-10 of the Insurance Code, which states that an order of notice of the Insurance Commissioner should be given “by delivery to the person to be ordered or notified, or by mailing it postage prepaid and registered with return receipt requested . . .” In connection with this, we note Rule 6(e) of the Rules of Civil Procedure:

Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) - Show in Context

Supporting passage 3:

On April 30, 1976 plaintiff

requested the Commissioner of Insurance to investigate alleged violations of Utah's Insurance Equality Law, section 31-27-24, by the defendants, the Equitable Life Assurance Society of the United States and Deseret Mutual Benefit Association. Hearings were scheduled and held December 21 and 22, 1976, but the Commissioner did not sign his findings and order, which rejected plaintiff's claims of discrimination, until April 25, 1977. That same day the Commissioner mailed the order to plaintiff's attorneys, who received it on April 26. Desiring a review of the issues by the district court, plaintiff appealed to the Salt Lake County District Court pursuant to section 31-4-9, filing its petition there on May 27, 1977.

Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) - Show in Context

Supporting passage 4:

Sections 31-4-9 through 31-4-11 explain the manner in which an appeal from the Insurance Commissioner's decision is taken. Omitted from these sections is a limit on the time one can take to comply with the appeal process. We agree with the district court that the Rules of Civil Procedure supplement the statute and provide a one month limit. Rule 81(d), adopted by this court on January 20, 1972,

	provides: Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) - Show in Context **Supporting passage 5:** I wish to state my reasons for not agreeing with the prevailing opinion. Our statute requires the hearing commissioner to make an order and to give a copy thereof to all parties. The next section provides for the taking of an appeal to the district court. Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978) - Show in Context	
Assertion #11	**Verify**	**Explore more**
This structural division is critical: Rule 73(g) was one of seven subsections governing the mechanics of taking an appeal from a district court to the Utah Supreme Court. Utah R. Civ. P. 73	The statement appears to reference a historical or superseded version of Rule 73 that is not supported by the current operative rule, which concerns attorney fees procedures rather than appellate mechanics, and contains only subsections (a) through (f) with no subsection (g) or provisions governing appeals to the Utah Supreme Court. **Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

$105.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 2:

Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

(3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (B) files a motion under Rules 64(c)(2) or 58C or under Utah Code section 35A-4-314,

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 5:

	(d) Liability for Fees. The court may decide issues of liability for fees before receiving submissions on the value of services. If the court has already determined liability for fees, the party claiming them may file an affidavit as provided in paragraph (c) and a proposed order. The court may enter an order for the claimed amount unless another party objects within seven days after the affidavit and proposed order are filed. Utah R. Civ. P. 73 - Show in Context	
Assertion #12	**Verify**	**Explore more**
The most frequently litigated subsection was Rule 73(a), which required a notice of appeal to be filed within one month from the entry of judgment. Utah R. Civ. P. 73	The statement appears to mischaracterize Rule 73(a), which according to the provided reference governs attorney fee motions with a 14-day deadline rather than notice of appeal requirements with a one-month deadline, and reliance on this statement as written would be inadvisable without clarification regarding whether it refers to a historical version of the rule or a different procedural rule altogether. **Supporting passage 1:** (a) Time in Which to Claim. Attorney fees may be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f), or in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	accordance with Utah Code section 75-3-718 when no objection to the fee has been made. Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (1) Fees Upon Entry of Uncontested Judgment. When a party seeks a judgment, the responding party does not contest entry of judgment by presenting either evidence or argument at a hearing , and the party seeking the judgment has complied with paragraph (e), then the request for judgment may include a request for attorney fees. The clerk or the court will allow any amount requested up to $475.00 for those attorney fees without a supporting affidavit. Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** (2) Fees Upon Entry of Judgment After Contested	

	Proceeding. When a party seeks a judgment, the responding party contests the judgment by presenting either evidence or argument at a hearing, and the party seeking the judgment has established its right to attorney fees, then the request for judgment may include a request for attorney fees. The clerk or the court will allow any amount requested up to $1,020.00 for those attorney fees without a supporting affidavit. Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #13	**Verify**	**Explore more**
The Utah Supreme Court in Anderson v. Anderson held that Rule 73(a) was intended to make failure to file a timely notice of appeal jurisdictional, and that such failure could be noticed by the reviewing court sua sponte. Anderson v. Anderson, 3	**Supporting passage 1:** The purpose of this Rule to make jurisdictional a failure to file the notice of appeal on time is clearly evident by the special provision therein that: Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) - Show in Context	**Key Numbers** 30k428(1) Appeal and Error > Filing Notice and Proof of Service > In general 30k792 Appeal and Error > Dismissal by court on its own motion

Utah 2d 277, 282 P.2d 845 (1955)	**Supporting passage 2:** It is thus clear that this appeal was not taken in time, that the failure to do so is jurisdictional and noticeable by the court sua sponte. The appeal is dismissed with costs to the respondent. Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) - Show in Context **Supporting passage 3:** It must be noted that this Rule prescribes the only circumstance under which the court may extend the time for filing notice of appeal. Thus, neither Rule 6(b) U.R.C.P., granting the court power to extend where a failure to act in time is due to 'excusable neglect' generally, nor Rule 60(b)(1) authorizing the court to relieve from a final judgment for inadvertence or excusable neglect, applies where the Notice of Appeal has not been filed in time. Burke v. Canfield, 72 App.D.C. 27, 111 F.2d 526. Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) - Show in Context **Supporting passage 4:** 'Rule 73, Utah Rules of Civil Procedure, requires an appeal to be taken within one month from the entry of the judgment appealed from and that a party may appeal from a judgment by filing with the district court a	30k428(2) Appeal and Error > Time for filing **Citing References** Cases citing Anderson v. Anderson **Parallel Search** Cases with similar language

	notice of appeal. Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) - Show in Context **Supporting passage 5:** On March 23, 1954, the defendant served upon counsel for plaintiff a notice of appeal to this court, but he did not present it to the clerk for filing until March 24. Rule 58A(c) U.R.C.P. provides: Anderson v. Anderson, 3 Utah 2d 277, 282 P.2d 845 (1955) - Show in Context	
Assertion #14	**Verify**	**Explore more**
In Albrecht v. Uranium Services, Inc., the Utah Supreme Court noted that the amended Rule 73 did not appear in the published Utah Rules of Civil Procedure as of 1979, prompting the court to restate the law on the time for taking an appeal. Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979)	**Supporting passage 1:** However, owing to the frequency with which this question is presented to us, and because the amended Rule 73 does not appear in Utah Rules of Civil Procedure as published in Vol. 9B, U.C.A. 1953, or the 1978 Pocket Supplement, we desire to make a restatement of the law as it applies to the time within which an appeal may be taken to this Court. Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979) - Show in Context **Supporting passage 2:** This rule was amended on the	**Key Numbers** 378k9(8) Time > Appeal and error and other proceedings for review 378k10(9) Time > Appeal and error and other proceedings for review 378k10(1) Time > Sunday or Other Nonjudicial Day > In general **Citing References** Cases citing Albrecht v.

	14th day of June, 1976. The first paragraph of the amended rule is:  Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979) - Show in Context **Supporting passage 3:** Uranium Services, Inc., (hereafter Uranium), appeals from a summary judgment quieting title to mining claims in plaintiffs, (hereafter Albrecht). We affirm, and award costs to Albrecht.  Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979) - Show in Context **Supporting passage 4:** When an appeal is permitted from a district court to the Supreme Court, the time within which an appeal may be taken shall be One month from the date of the entry (in the Register of Actions of the judgment or order appealed from unless a shorter time is provided by law, except that upon a showing of excusable neglect, the district court may extend the time for filing the notice of appeal not exceeding one month from the expiration of the original time herein prescribed. Such an extension may be granted by the district court before or after the expiration of the original time herein prescribed; but if a	Uranium Services, Inc. **Parallel Search** Cases with similar language

request for an extension is made after the original time prescribed by this subdivision has expired, it shall be made by motion with such notice as the district court shall deem appropriate. (Emphasis supplied.)

Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979) - Show in Context

Supporting passage 5:

Defendant's affidavit in opposition stated that Uranium Services, Inc., is the owner of unpatented mining claims referred to in the affidavit of Torval Albrecht; and that the affiant John L. Anderson “has personally examined, annually, mining claims which are covered by the affidavit of Torval Albrecht; and of his own knowledge, it appears that no mining operations of any type or nature whatsoever have been conducted on the subject property for many years.” The affidavit further states that Torval Albrecht, Sherwood Albrecht, Maurice Albrecht, Steve Albrecht, Carl R. Albrecht, and their predecessors abandoned the mining claims in 1960; and that he, John Anderson, “on behalf of Uranium Services, Inc., filed the Notices of Location with respect to the subject property, all of which were subsequent to the abandonment of the plaintiffs and their predecessors, successors and assigns to the subject mining claims . . .”

	Albrecht v. Uranium Servs., Inc., 596 P.2d 1025 (Utah 1979) - Show in Context	
Assertion #15	**Verify**	**Explore more**
The court confirmed that Rule 73(a) required a notice of appeal to be filed within one month from the date of entry of the judgment in the Register of Actions.	**Authority found** It [was] apparent that Rule 73(h), U.R.C.P. provides that an appeal must be taken within one month after notice of entry of judgment and the appellant must serve and file a notice of appeal upon the adverse party. It is equally clear by the provisions of Rule 73(l), U.R.C.P., that the filing of the notice of the appeal and the payment of the fees therefor within the time allowed are the only requirements necessary for the court to have jurisdiction. * * * (Emphasis added.) See: Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965)	**Key Numbers** 30k348(2) Appeal and Error > Sufficiency of notice or copy and service thereof **Parallel Search** Cases with similar language
Assertion #16	**Verify**	**Explore more**
In Nelson v. Stoker, the court further elaborated that the trial court had no obligation to inform parties when a judgment had been executed and docketed, creating practical difficulties in knowing when the one-month period began to run.	**Supporting passage 1:** Wood v. Turner, supra at 231–32, 419 P.2d at 635. Accord Lemke v. United States, 346 U.S. 325, 74 S.Ct. 1, 98 L.Ed. 3 (1953). Our holding is further buttressed by policy considerations which recognize the difficulty of knowing when a judgment is executed and	**Key Numbers** 30k428(2) Appeal and Error > Time for filing 228k276 Judgment > Proceedings for entry **Citing**

Nelson v. Stoker, 669 P.2d 390 (Utah 1983)

docketed. Under Utah law, the court has no obligation to inform the parties or their counsel when execution and docketing have occurred. We are of the opinion that the ends of justice will best be served by hearing the case on the merits.

Nelson v. Stoker, 669 P.2d 390 (Utah 1983) - Show in Context

Supporting passage 2:

Prior to the conveyance of the real property by the plaintiffs to the Stokers, several outstanding judgments existed against Richard Stoker. The plaintiffs were cognizant of these outstanding judgments. The defendant Ray Quintana dba Silver Way has a judgment against Richard Stoker dated January 13, 1977, in the approximate amount of $1,400. In addition, defendants the State of Utah Department of Social Services (hereafter “State”) and Patricia Kunz have a judgment against Richard Stoker dated February 23, 1979, in the amount of $21,610. The latter judgment was taken against Richard Stoker for unpaid child support.

Nelson v. Stoker, 669 P.2d 390 (Utah 1983) - Show in Context

Supporting passage 3:

References
Cases citing Nelson v. Stoker

Parallel Search
Cases with similar language

Before we may address the issue of whether the trial court erred in ruling that the plaintiffs' lien had priority over the State's judgment lien, we must determine whether this Court has jurisdiction pursuant to Rule 73(a) of the Utah Rules of Civil Procedure. The State's notice of appeal was filed prematurely. On January 29, 1982, by minute entry, the trial court granted the plaintiffs' motion for summary judgment, thereby establishing the priority of the plaintiffs' lien over the State's judgment lien. The State filed a notice of appeal on February 8, 1982. The trial court's written Findings of Fact, Conclusions of Law and Judgment were not executed and docketed until March 10, 1982.

Nelson v. Stoker, 669 P.2d 390 (Utah 1983) - Show in Context

Supporting passage 4:

The final written judgment which was filed is exactly in accord with the ruling appealed from. We cannot see that the defendant was put to any disadvantage or that his rights were adversely affected by the irregularity of procedure here.

Nelson v. Stoker, 669 P.2d 390 (Utah 1983) - Show in Context

Supporting passage 5:

	On May 1, 1979, the plaintiffs conveyed the real property by warranty deed to the defendants Richard and LaNae Stoker. In exchange for the real property, the Stokers agreed to make the payments on Western Mortgage's trust deed and note. In addition, as part of the purchase price, on May 1, 1979, the Stokers executed a trust deed and note for $8,464.76 naming Heber Nelson as the beneficiary. The warranty deed shows that it was recorded at 12:35 p.m. on June 5, 1979, and bears a county recorder's number of 3289485. The trust deed shows that it was also recorded at 12:35 p.m. on June 5, 1979, and bears a county recorder's number of 3289486. The Stokers made no down payment and only one monthly payment. Nelson v. Stoker, 669 P.2d 390 (Utah 1983) - Show in Context	
Assertion #17	**Verify**	**Explore more**
Rule 73(a) also interacted with post-trial motions.	**Authority found** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Parallel Search** Cases with similar language

	motions, the notice of appeal was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension of time in which to file a notice of appeal. That motion was filed because of an ambiguity in the rules. Rule 73(a) of the Utah Rules of Civil Procedure (as well as Rule 4(b) of the current Rules of the Utah Supreme Court) provides that the time for filing a notice of appeal begins to run again when an order denying the post-judgment motion is entered. However, the rule does not address the situation where no order is entered because the pretrial motions are voluntarily withdrawn. See: Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	
Assertion #18	**Verify**	**Explore more**
In Guardian State Bank v. Stangl, the Utah Supreme Court — citing "Utah R.Civ.P., 73(a) (repealed 1985)" — confirmed that the filing of post-trial motions under Rules 50(b), 52(b), or 59 terminated the time for filing a notice of appeal until an order was entered granting or denying such motions.	**Supporting passage 1:** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial motions, the notice of appeal	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Citing References** Cases citing Guardian State Bank v. Stangl

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension of time in which to file a notice of appeal. That motion was filed because of an ambiguity in the rules. Rule 73(a) of the Utah Rules of Civil Procedure (as well as Rule 4(b) of the current Rules of the Utah Supreme Court) provides that the time for filing a notice of appeal begins to run again when an order denying the post-judgment motion is entered. However, the rule does not address the situation where no order is entered because the pretrial motions are voluntarily withdrawn. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context **Supporting passage 2:** Stangl's contention, that allowing the time for filing a notice of appeal to run from withdrawal of the post-trial motions can lead to abuse, is without merit. First, Rule 73(a) (and current Rule 4(b)) allows for an extension of time to file a notice of appeal which would have the same effect as the filing of a post-trial motion. Second, insisting on an actual order denying such motions would not deter sham filings made solely as a pretense to obtain more time for filing a	**Parallel Search** Cases with similar language

	notice of appeal. A party would only have to wait for an order denying a sham motion rather than withdraw the motion to achieve additional time. Finally, unless the withdrawal of a post-trial motion is considered the equivalent of an order denying such a motion, the effect of the rule is to penalize a party who elects to withdraw a motion in order to save time. In U–M Investments v. Ray, 658 P.2d 1186 (Utah 1982), this Court held that, under Rule 73(a), a pending post-trial motion under Rule 59 rendered ineffective a notice of appeal filed before disposition of the motion. We stated, “It seems only fair and equitable to require an appellant who . . . files a motion under Rule 59 to file a simple notice of appeal within [the proper time] after his motion has been denied.” 658 P.2d at 1187 (emphasis added). See also Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61, 103 S.Ct. 400, 403, 74 L.Ed.2d 225 (1982) (under Rule 4(a) of the Federal Rules of Appellate Procedure, a notice of appeal filed while a post-trial motion is pending is “a nullity” and the effect “is as if no notice of appeal were filed at all”); Skagerberg v. Oklahoma, 797 F.2d 881, 883 (10th Cir.1986). Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context **Supporting passage 3:**	

There is no suggestion of any improper purpose on Guardian's part in filing its post-trial motions. For these reasons, we hold that the notice of appeal was timely filed, irrespective of whether the order granting additional time for filing had a nunc pro tunc effect.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 4:

Stangl was a fifty-percent shareholder in, and an officer and director of, Sargetis Fine Cars, Inc., a car dealership in Price, Utah, which Stangl co-owned with John Sargetis. In August, 1979, the dealership obtained a loan of $150,000 from Empire State Bank, the predecessor of Guardian. The dealership executed a promissory note (the “Sargetis note”) for $150,000 payable on demand. Stangl and Sargetis executed continuing guaranties of all debts and obligations owed Guardian by the dealership.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 5:

We turn first, however, to Stangl's contention that Guardian's notice of appeal was not timely filed and that this appeal must therefore be

	dismissed. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context	
Assertion #19	**Verify**	**Explore more**
This case is significant because it expressly confirms the repeal date of 1985 for the old Rule 73. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	**Supporting passage 1:** On motion and upon such terms as are just, the court may in the furtherance of justice relieve a party . . . from a final judgment, order, or proceeding [if] . . . (6) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. . . . Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context **Supporting passage 2:** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial motions, the notice of appeal was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Citing References** Cases citing Guardian State Bank v. Stangl **Parallel Search** Cases with similar language

withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension of time in which to file a notice of appeal. That motion was filed because of an ambiguity in the rules. Rule 73(a) of the Utah Rules of Civil Procedure (as well as Rule 4(b) of the current Rules of the Utah Supreme Court) provides that the time for filing a notice of appeal begins to run again when an order denying the post-judgment motion is entered. However, the rule does not address the situation where no order is entered because the pretrial motions are voluntarily withdrawn.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 3:

A voluntary withdrawal is tantamount to an order denying a post-trial motion. A voluntary withdrawal may reflect a more considered judgment regarding the validity of such motions. The decision may be the result of more research than was possible in the ten days allowed for filing such motions. Treating a voluntary withdrawal as an order denying the motion may save both judicial time and expense to the parties and therefore ought not to be discouraged.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 4:

Stangl's contention, that allowing the time for filing a notice of appeal to run from withdrawal of the post-trial motions can lead to abuse, is without merit. First, Rule 73(a) (and current Rule 4(b)) allows for an extension of time to file a notice of appeal which would have the same effect as the filing of a post-trial motion. Second, insisting on an actual order denying such motions would not deter sham filings made solely as a pretense to obtain more time for filing a notice of appeal. A party would only have to wait for an order denying a sham motion rather than withdraw the motion to achieve additional time. Finally, unless the withdrawal of a post-trial motion is considered the equivalent of an order denying such a motion, the effect of the rule is to penalize a party who elects to withdraw a motion in order to save time. In U–M Investments v. Ray, 658 P.2d 1186 (Utah 1982), this Court held that, under Rule 73(a), a pending post-trial motion under Rule 59 rendered ineffective a notice of appeal filed before disposition of the motion. We stated, “It seems only fair and equitable to require an appellant who . . . files a motion under Rule 59 to file a simple notice of appeal within [the proper time] after his motion has been denied.” 658 P.2d at 1187 (emphasis added). See also

Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61, 103 S.Ct. 400, 403, 74 L.Ed.2d 225 (1982) (under Rule 4(a) of the Federal Rules of Appellate Procedure, a notice of appeal filed while a post-trial motion is pending is “a nullity” and the effect “is as if no notice of appeal were filed at all”); Skagerberg v. Oklahoma, 797 F.2d 881, 883 (10th Cir.1986).

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 5:

From the foregoing discussion, it would ordinarily follow that the judgment against Guardian on the Sargetis note should be reversed and the case remanded for further proceedings. However, this case is complicated by the judgment against Guardian's attorneys on the third-party complaint. Guardian's attorneys have not appealed the $106,771.55 judgment against them for malpractice, and therefore the validity of Guardian's judgment against them is not before us. It would, however, be inequitable to reverse the judgment against Guardian if the judgment against the attorneys is allowed to stand. However, the law is not without a remedy. Rule 60(b) of the Utah Rules of Civil Procedure provides:

Guardian State Bank v. Stangl,

	778 P.2d 1 (Utah 1989) - Show in Context	
Assertion #20	**Verify**	**Explore more**
The subsections of old Rule 73 beyond (a) addressed related aspects of the appeals process. Utah R. Civ. P. 73	The statement regarding old Rule 73's treatment of appeals-related matters appears to reference a prior version of the rule that is not reflected in the current reference material provided, which addresses attorney fees and post-judgment collections exclusively, leaving the claim about supersedeas bonds and appellate procedures unsupported by the supplied sources. **Supporting passage 1:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:**	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Action Any subsequent application for a writ under Rule 64D to the same garnishee; Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: Utah R. Civ. P. 73 - Show in Context	
Assertion #21	**Verify**	**Explore more**
Rule 73(d) governed supersedeas bonds, requiring them to be conditioned for satisfaction of the judgment in full together with costs, interest, and damages for delay. Utah R. Civ. P. 73	The statement appears to reference a superseded version of Rule 73 and should not be relied upon, as the current Rule 73(d) effective May 1, 2026 governs attorney fee liability rather than supersedeas bonds, and the provided reference material contains no language supporting the statement's characterization of bond	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

conditioning requirements.

Supporting passage 1:

(3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently:

Utah R. Civ. P. 73 - Show in Context

Supporting passage 2:

(1) Fees Upon Entry of Uncontested Judgment. When a party seeks a judgment, the responding party does not contest entry of judgment by presenting either evidence or argument at a hearing , and the party seeking the judgment has complied with paragraph (e), then the request for judgment may include a request for attorney fees. The clerk or the court will allow any amount requested up to $475.00 for those attorney fees without a supporting affidavit.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

(3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (B) files a motion under Rules 64(c)(2) or 58C or under Utah Code section 35A-4-314,

	Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** (3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (A) applies for any writ under Rules 64, 64A, 64B, 64C, 64D, or 64E; or Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #22	**Verify**	**Explore more**
In U-M Investments v. Ray, the Utah Supreme Court applied Rule 73(d) to hold that a supersedeas bond must be intended to conform to the rule's requirements and cover the judgment in full. U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985)	**Supporting passage 1:** This case is before us on appeal from the trial court's dismissal of appellants' motion for entry of judgment against respondents, who are sureties on a supersedeas bond. Appellants assert that the trial court erred in failing to enter judgment on the bond against respondents for the full amount of the underlying judgment secured by the bond.	**Key Numbers** 30k4858 Appeal and Error > Extent of Liability > In general 30k458(1) Appeal and Error > Right to Supersedeas or Stay in General > In general 30k4875 Appeal and Error > Trial,

We agree and reverse.

U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985) - Show in Context

Supporting passage 2:

Our review of the facts makes it clear that the term “all damages” can only reasonably be construed to include the underlying judgment. The bond was drafted by respondents as a supersedeas bond. Rule 73(d) of the Utah Rules of Civil Procedure requires a supersedeas bond to be “conditioned for the satisfaction of the judgment in full together with costs, interests and damages for delay. . . . ” In the absence of any limiting terms, the bond must have been intended to conform to Rule 73(d) and to cover the judgment in full. Indeed, inasmuch as a supersedeas bond by its nature is intended to secure a prevailing party against losses resulting from an unsuccessful appeal, construing the bond as limited to covering damages for delay would only frustrate its essential purpose. It is also noteworthy that, in addition to the supersedeas bond, respondents' principals filed a cost bond to cover costs on appeal. It follows that the parties' sole purpose in filing the supersedeas bond must have been to stay execution on the judgment. Finally, the bond was fixed at the amount of the underlying judgment, suggesting that the parties intended the

judgment, and review

Citing References
Cases citing U-M Investments v. Ray

Parallel Search
Cases with similar language

bond to cover that judgment.

U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985) - Show in Context

Supporting passage 3:

To prevent execution on the judgment while the initial appeal was pending, Ray and Bergstrom posted a supersedeas bond in the amount of $128,000. Respondents are the sureties on the bond. The bond provides:

U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985) - Show in Context

Supporting passage 4:

Appellants obtained a $128,000 judgment against Ray and Bergstrom, inter alia, in an action for fraud. That judgment was appealed. This Court dismissed the appeal because the notice of appeal was ineffective. U–M Investments v. Ray, Utah, 658 P.2d 1186, 1187 (1982).

U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985) - Show in Context

Supporting passage 5:

The majority opinion's reliance on the existence of a separate cost bond as indicative of the respondents' intent to have the bond cover the underlying judgment is misplaced. That reliance overlooks the fact that the respondents are strangers to this action except in their capacity as sureties on the bond

	at issue. The principals, not the respondents, filed the cost bond. Further, even if the intent of the principals may be imputed to the respondents, the existence of the cost bond does not demonstrate an intent to have the separate bond in question cover the underlying judgment. Indeed, if the respondents had desired this result, they would not have filed a separate cost bond, since bonds filed in accordance with Rule 73(d), Utah R.Civ.P., are for "the satisfaction of the judgment in full together with costs, interest, and damages for dalay. . . . " (Emphasis added.) I would affirm the decision of the trial court. U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985) - Show in Context	
Assertion #23	**Verify**	**Explore more**
In Ludahl v. Larson, the court held that an appellant who failed to apply for a supersedeas bond and failed to file the bond had no basis to complain about the court's failure to stay execution of the judgment. Ludahl v. Larson, 586 P.2d 439 (Utah 1978)	**Supporting passage 1:** The appellant also claims the trial court should have kept him in Utah until this appeal was decided. Habeas Corpus proceedings are civil in nature and the appellant could have procured a stay of the execution of the judgment by following Rule 73(d). Prior to the hearing on the application for the writ, the defendant posted a cash bail in the amount of $2,500. The petition was denied February 2, 1978 and the cash bail was released to appellant's counsel on March 1, 1978. The notice of	**Key Numbers** 197k804 Habeas Corpus > Enforcement; Contempt **Citing References** Cases citing Ludahl v. Larson **Parallel Search** Cases with similar language

appeal was filed March 3rd, following, and an affidavit of impecuniosity filed March 20, 1978. No application was made for a supersedeas bond and by failing to file the bond, he has no basis to complain because of the fact that the court failed to stay the execution of the judgment.

Ludahl v. Larson, 586 P.2d 439 (Utah 1978) - Show in Context

Supporting passage 2:

It seems that courts ought not release a prisoner in extradition proceedings after the writ of Habeas Corpus is refused. The prisoner should be held in custody so as to be available for delivery to the officers of the demanding state when they arrive. If prisoners were permitted freedom on bond as they constantly seek, then by calculated delays in the appellate process they can wear down the efforts of the demanding state to return them for trial. If prisoners were denied bond after the hearing they would not seek the long delays which they otherwise do.

Ludahl v. Larson, 586 P.2d 439 (Utah 1978) - Show in Context

Supporting passage 3:

The prosecution of this appeal seems to be an exercise in futility. The appellant has been taken to Oregon where he is now serving time for his crime and

	our ruling on this appeal would not release him from the Oregon prison. Ludahl v. Larson, 586 P.2d 439 (Utah 1978) - Show in Context **Supporting passage 4:** It is obvious from the wording of the statute that there is no requirement of an affidavit when the charge is contained in an indictment found by the grand jury. The affidavit is only required when the charge is by an information filed by the prosecuting attorney. In this case the papers from Oregon show that the appellant is charged by an indictment and not by an information. There is no basis for relief on this claim. Ludahl v. Larson, 586 P.2d 439 (Utah 1978) - Show in Context **Supporting passage 5:** His basis for appeal is twofold. He claims the extradition papers were defective in that there was no affidavit which he contends is mandated by the language of section 77-56-3, U.C.A., 1953. The language of the statute in question is this: Ludahl v. Larson, 586 P.2d 439 (Utah 1978) - Show in Context	
Assertion #24	**Verify**	**Explore more**

In Swasey v. Rocky Point Ditch Co., the Utah Supreme Court granted leave to permit the district court to rule on an objection to the sufficiency of a supersedeas bond even after the record had been transmitted to the Supreme Court, citing Rules 73(d) and (e).

Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982)

Supporting passage 1:

We therefore grant leave under the foregoing rule and direct the district court to take any evidence it may deem appropriate and to rule upon the question as to the adequacy of plaintiffs' supersedeas bond. So ordered.

Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982) - Show in Context

Supporting passage 2:

By motion, defendants objected to the sufficiency of the bond in the district court. Inasmuch as the record had already been transmitted to this Court for appeal purposes, the district court declined to hear the matter. Now, before this Court, defendants argue that the bond is not sufficient, while the plaintiffs argue that it is sufficient. Rule 73(e), Utah Rules of Civil Procedure, provides as follows:

Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982) - Show in Context

Supporting passage 3:

If a bond on appeal or a supersedeas bond is not filed within the time specified, or if the bond filed is found insufficient, and if the record on appeal has not been filed in the Supreme Court, a bond may be filed at such time before the record is so

Key Numbers

30k478 Appeal and Error > Application and Proceedings Thereon

Citing References

Cases citing Swasey v. Rocky Point Ditch Co.

Parallel Search

Cases with similar language

	filed as may be fixed by the district court. After the record is so filed, application for leave to file a bond may be made only in the Supreme Court. Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982) - Show in Context **Supporting passage 4:** Defendants move to dismiss this appeal due to inadequacies of plaintiffs' supersedeas bond or in the alternative, to require plaintiffs to post a proper bond. Defendants contend that the bond filed in this matter does not meet the requirements of Rule 73(d), U.R.C.P., and that it fails to offer meaningful assurances to defendants. Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982) - Show in Context **Supporting passage 5:** As indicated on numerous occasions, this Court is ill-equipped to take evidence. This matter clearly calls for a factual determination, which necessitates the taking of evidence. Swasey v. Rocky Point Ditch Co., 649 P.2d 1 (Utah 1982) - Show in Context	
Assertion #25	**Verify**	**Explore more**

Rule 73(h) governed appeals from city or justice courts to district courts. Utah R. Civ. P. 73	The statement appears to misattribute appellate jurisdiction authority to a provision that does not exist in the current codification of Utah Rule of Civil Procedure 73, which addresses only attorney fees procedures and contains subsections (a) through (f), and should not be relied upon without independent verification of the correct source authority. **Supporting passage 1:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** Action Any subsequent application for a writ under Rule 64D to the same garnishee; Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (b) Content of Motion. The motion must: (1) specify the statute, rule, contract, judgment, or other basis entitling the party to the award; Utah R. Civ. P. 73 - Show in Context	
Assertion #26	**Verify**	**Explore more**
In Marsh v. Utah Homes, Inc., the Utah Supreme Court held that payment of fees for docketing an appeal in the district court under Rule 73(h) was jurisdictional, and that the filing of the notice of appeal and payment of fees within the time allowed were the only requirements necessary for the court to have jurisdiction. Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965)	**Supporting passage 1:** The main question presented is whether the payment of the fees for docketing the appeal in the District Court is jurisdictional. This was answered in the affirmative by this court in Bish's Sheet Metal Co. v. Luras wherein it was stated: Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) - Show in Context **Supporting passage 2:** It [was] apparent that Rule 73(h),	**Key Numbers** 102k935 Costs, Fees, and Sanctions > Payment of fees on appealing or seeking review **Citing References** Cases citing Marsh v. Utah Homes, Inc. **Parallel Search** Cases with

	U.R.C.P. provides that an appeal must be taken within one month after notice of entry of judgment and the appellant must serve and file a notice of appeal upon the adverse party. It is equally clear by the provisions of Rule 73(l), U.R.C.P., that the filing of the notice of the appeal and the payment of the fees therefor within the time allowed are the only requirements necessary for the court to have jurisdiction. (Emphasis added.) Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) - Show in Context **Supporting passage 3:** Defendant filed his notice of appeal on time which invoked the jurisdiction of the District Court and which this court has held to be the jurisdictional requirement. See Penman v. Eimco Corp., 114 Utah 16, 196 P.2d 984; also the later case of Buckner v. Main Realty and Insurance Co., 4 Utah 2d 124, 288 P.2d 786, which indicates that Rule 73(h) was not intended to change the procedure governing appeals from city courts as it existed under former statutes. No one will dispute that the failure to pay the proper fee until a few days later was a defect in procedure. However, just as is said in regard to the plaintiff's failure to strictly comply, no one was hurt or misled. Particularly, the plaintiff was not in any way adversely	similar language

affected.

Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) - Show in Context

Supporting passage 4:

Plaintiff was granted a judgment against defendant by the Ogden City Court. The defendant sought an appeal to the District Court. The latter court, upon proper motion of plaintiff, dismissed the appeal for failure of defendant to deposit the required fees. Defendant appeals from this order of dismissal.

Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) - Show in Context

Supporting passage 5:

Defendant argues, however, that the fees were timely paid because the time for appeal had not commenced running for the reason that it never received notice of the entry of the judgment. Its position is that the copy of the signed judgment which plaintiff mailed to defendant the day before it was entered did not constitute a 'notice of entry of judgment' as provided in Rule 73(h). Under the circumstances of this case, we hold otherwise.

Marsh v. Utah Homes, Inc., 17 Utah 2d 248, 408 P.2d 906 (1965) - Show in Context

Assertion #27	Verify	Explore more
Based on the structure of the old Rule 73 and its federal analog, Rule 73(g) addressed the docketing of the record on appeal with the Utah Supreme Court. Utah R. Civ. P. 73	The statement appears to reference historical provisions of Utah Rule 73 that are not present in the current rule as provided, and while the claim regarding an older Rule 73(g) addressing appellate docketing may have historical merit, it cannot be verified against the supplied reference material, which contains only the current Rule 73 governing attorney fees with subsections (a) through (f). **Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** (b) Content of Motion. The motion must: (5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee, and a statement that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** Action Any subsequent application for a writ under Rule 64D to the same garnishee; Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #28	**Verify**	**Explore more**
The federal Rule 73(g) — which the Utah rule mirrored — required that the record on appeal be filed with the appellate court and the action there docketed within 40 days from the date of the notice of appeal.	**Supporting passage 1:** The notice of appeal was dated March 21, 1941. The record of appeal was filed in this court May 9, 1941. Rule 73(g) of the Rules of Civil Procedure, 28 U.S.C.A.following section 723(c), requires the record on appeal to be 'filed with the appellate court	**Key Numbers** 170Bk3471 Federal Courts > Record > In general **Citing References** Cases citing

Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941)	and the action there docketed within 40 days from the date of notice of appeal.‘ Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 2:** On April 28, 1941, the plaintiffs filed in the trial court a designation of the record on appeal. A copy thereof was not served either upon the individual defendants or the corporation. The designation did not include the complete record and the plaintiffs did not file nor serve upon either the corporation or the individual defendants a concise statement of the points on which they intended to rely on the appeal. The plaintiffs, therefore, failed to comply with Rule 75(a) and (d) of the Rules of Civil Procedure. Plaintiffs did not, when the record was filed in this court, nor within five days thereafter, nor at any other time, file with the clerk of this court a definite statement of the points on which they intended to rely and of the parts of the record which they deemed necessary for the consideration thereof as required by Rule 13 of this court. See Leimer v. State Mut. L. Assur. Co., 8 Cir., 107 F.2d 1003. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context	Lopata v. Handler **Parallel Search** Cases with similar language

Supporting passage 3:

The individual defendants and the corporation have moved to dismiss the appeal.

Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context

Supporting passage 4:

The individual defendants filed a petition to remove the action to the District Court of the United States for the Eastern District of Oklahoma, on the ground of diversity of citizenship. They alleged that the amount in controversy was in excess of $5,000. The corporation also filed a petition to remove the cause to the federal court wherein it alleged that the amount in controversy, exclusive of interest and costs, exceeded the sum or value of $3,000; that at the time of the bringing of the action it was and still is a corporation organized under the laws of the state of Delaware and a citizen of that state; that the plaintiffs at the time of the bringing of the action were and still are citizens of the state of Iowa; that plaintiffs' petition sets up two causes of action, one against the corporation and one against the individual defendants; that such causes of action are separate, separable, and distinct. Other steps requisite to removal were taken by the individual defendants and the corporation and the action

	was removed to the federal court. After the cause was removed to the federal court, counsel for plaintiffs announced in open court that they would not move to remand the suit to the state court. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 5:** Furthermore, it is our opinion that the record discloses no prejudicial error. The appeal is therefore, dismissed. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context	
Assertion #29	**Verify**	**Explore more**
This is confirmed by the Tenth Circuit's description of the federal rule in Lopata v. Handler, which stated that federal Rule 73(g) requires the record on appeal to be filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941)	**Supporting passage 1:** The notice of appeal was dated March 21, 1941. The record of appeal was filed in this court May 9, 1941. Rule 73(g) of the Rules of Civil Procedure, 28 U.S.C.A.following section 723(c), requires the record on appeal to be 'filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal.' Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 2:**	**Key Numbers** 170Bk3471 Federal Courts > Record > In general **Citing References** Cases citing Lopata v. Handler **Parallel Search** Cases with similar language

On April 28, 1941, the plaintiffs filed in the trial court a designation of the record on appeal. A copy thereof was not served either upon the individual defendants or the corporation. The designation did not include the complete record and the plaintiffs did not file nor serve upon either the corporation or the individual defendants a concise statement of the points on which they intended to rely on the appeal. The plaintiffs, therefore, failed to comply with Rule 75(a) and (d) of the Rules of Civil Procedure. Plaintiffs did not, when the record was filed in this court, nor within five days thereafter, nor at any other time, file with the clerk of this court a definite statement of the points on which they intended to rely and of the parts of the record which they deemed necessary for the consideration thereof as required by Rule 13 of this court. See Leimer v. State Mut. L. Assur. Co., 8 Cir., 107 F.2d 1003.

Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context

Supporting passage 3:

The individual defendants and the corporation have moved to dismiss the appeal.

Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context

	Supporting passage 4: Arnest Lopata and twelve other individuals brought this action against S. B. Handler, M. H. Holden, Hubert D. Meyer, and the Hanfield Petroleum & Royalty Corporation in the District Court of Okmulgee County, Oklahoma. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 5:** Furthermore, it is our opinion that the record discloses no prejudicial error. The appeal is therefore, dismissed. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context	
Assertion #30	**Verify**	**Explore more**
The Wright & Miller treatise further confirms that prior to 1968, the time for taking an appeal and for filing the record on appeal was controlled solely by the provisions of Rule 73, and that Rule 6(b) prohibited extending the time for any act under Rules 73(a) and (g). § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.)	**Supporting passage 1:** Prior to 1968, the time for taking an appeal and for filing the record on appeal was controlled solely by the provisions of Rule 73; with the adoption of the Federal Rules of Appellate Procedure in that year, the matter came under the governance of Appellate Rule 4; the references in Rule 6(b) to Rules 73(a) and (g) became superfluous and were eliminated. These time periods continue to be governed by the appellate	**Citing References** Cases citing § 1167 Prohibitions on Extending Time **Parallel Search** Cases with similar language

	rules. § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.) - Show in Context **Supporting passage 2:** Accordingly, the amendment prohibited extending the time for any act under Rules 50(b), 52(b), 59(b), (d), and (e), 60(b), and 73(a) and (g) “except to the extent and under the conditions stated” in those rules themselves. § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.) - Show in Context	
Assertion #31	**Verify**	**Explore more**
No Utah state court decision has been found that specifically cites Utah Rule 73(g) by name.	**Authority found** Attorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f) of this rule, or in accordance with Utah Code § 75-3-718, and no objection to the fee has been made. See: Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Key Numbers** 102k897 Costs, Fees, and Sanctions > Objections and exceptions **Precision Research** Motion Practice > Compliance with Local Rule **Parallel Search** Cases with similar language

Assertion #32	Verify	Explore more
The absence of such citations is consistent with the rule's function: docketing requirements were largely ministerial, and disputes about them typically arose in the context of motions to dismiss for failure to timely docket, which were more commonly addressed under the companion Rule 75 (governing the record on appeal) or under the court's own rules.	**Authority found** In this case the record on appeal was not docketed within the time required by Rule 73(g), F.R.Civ.P., 28 U.S.C.A. Pursuant to our Rule 15, subd. 1, 28 U.S.C.A., appellee filed a motion to docket and dismiss the appeal. Thereafter the appellant presented his motion for permission to docket out of time. On January 13, 1961, this court entered its order permitting the docketing of appeal out of time on condition that a supersedeas bond in the sum of $65,000 be filed with this court on or before January 25, 1961. This time was later extended to February 24, 1961. No supersedeas bond has been filed and there has been no response by the attorney for the appellant to inquiry from the clerk of the court in regard thereto. Accordingly, it is ordered that the motion of the appellant for leave to docket out of time is denied and the motion of the appellee to docket and dismiss is granted. The appeal is forthwith dismissed. See: Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961)	**Key Numbers** 170Bk3435 Federal Courts > Effect of delay and excuses in general **Parallel Search** Cases with similar language
Assertion #33	**Verify**	**Explore more**

The Utah Supreme Court's cases in this era more frequently addressed the jurisdictional notice-of-appeal requirement in Rule 73(a) and the supersedeas bond provisions in Rule 73(d).

Authority found

Our review of the facts makes it clear that the term “all damages” can only reasonably be construed to include the underlying judgment. The bond was drafted by respondents as a supersedeas bond. Rule 73(d) of the Utah Rules of Civil Procedure requires a supersedeas bond to be “conditioned for the satisfaction of the judgment in full together with costs, interests and damages for delay. . . . ” In the absence of any limiting terms, the bond must have been intended to conform to Rule 73(d) and to cover the judgment in full. Indeed, inasmuch as a supersedeas bond by its nature is intended to secure a prevailing party against losses resulting from an unsuccessful appeal, construing the bond as limited to covering damages for delay would only frustrate its essential purpose. It is also noteworthy that, in addition to the supersedeas bond, respondents' principals filed a cost bond to cover costs on appeal. It follows that the parties' sole purpose in filing the supersedeas bond must have been to stay execution on the judgment. Finally, the bond was fixed at the amount of the underlying judgment, suggesting that the parties intended the bond to cover that judgment.

See: U-M Invs. v. Ray, 701 P.2d 1061 (Utah 1985)

Key Numbers

30k4858 Appeal and Error > Extent of Liability > In general
30k4875 Appeal and Error > Trial, judgment, and review
30k458(1) Appeal and Error > Right to Supersedeas or Stay in General > In general

Parallel Search

Cases with similar language

Assertion #34	**Verify**	**Explore more**
The entire old Rule 73 — including subsection (g) — was repealed in 1985 when Utah adopted its Rules of Appellate Procedure. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	**Supporting passage 1:** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial motions, the notice of appeal was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension of time in which to file a notice of appeal. That motion was filed because of an ambiguity in the rules. Rule 73(a) of the Utah Rules of Civil Procedure (as well as Rule 4(b) of the current Rules of the Utah Supreme Court) provides that the time for filing a notice of appeal begins to run again when an order denying the post-judgment motion is entered. However, the rule does not address the situation where no order is entered because the pretrial motions are voluntarily withdrawn. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Citing References** Cases citing Guardian State Bank v. Stangl **Parallel Search** Cases with similar language

Supporting passage 2:

We turn first, however, to Stangl's contention that Guardian's notice of appeal was not timely filed and that this appeal must therefore be dismissed.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 3:

Guardian's complaint sought equitable relief in the form of a judgment declaring the rights of the parties under the Sargetis note. In addition, Guardian pleaded mistake as an affirmative defense to Stangl's counterclaim on the Sargetis note. In Behrens v. Raleigh Hills Hosp., Inc., 675 P.2d 1179, 1182 (Utah 1983), we reiterated that the policy of our rules of procedure is to decide cases on the merits rather than pleading technicalities. Rule 54(c)(1) of the Utah Rules of Civil Procedure provides that a court shall grant all the relief to which the prevailing party is entitled, even if a demand was not made for such relief in the pleadings. Indeed, in Mabey v. Kay Peterson Constr. Co., 682 P.2d 287, 290 (Utah 1984), we squarely held that Rule 54(c)(1) allows a court to reform a document if a mutual mistake is established, even if the issue of mutual mistake was not raised

and reformation was not demanded in the pleadings. Here, the complaint for a declaratory judgment was a sufficient request for relief, and in any event, the rule laid down in Mabey also applies where the mistake is unilateral and reformation is appropriate.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 4:

There is no suggestion of any improper purpose on Guardian's part in filing its post-trial motions. For these reasons, we hold that the notice of appeal was timely filed, irrespective of whether the order granting additional time for filing had a nunc pro tunc effect.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 5:

Stangl's contention, that allowing the time for filing a notice of appeal to run from withdrawal of the post-trial motions can lead to abuse, is without merit. First, Rule 73(a) (and current Rule 4(b)) allows for an extension of time to file a notice of appeal which would have the same effect as the filing of a post-trial motion. Second, insisting on an actual order denying such motions would not deter sham filings made solely as a pretense

	to obtain more time for filing a notice of appeal. A party would only have to wait for an order denying a sham motion rather than withdraw the motion to achieve additional time. Finally, unless the withdrawal of a post-trial motion is considered the equivalent of an order denying such a motion, the effect of the rule is to penalize a party who elects to withdraw a motion in order to save time. In U–M Investments v. Ray, 658 P.2d 1186 (Utah 1982), this Court held that, under Rule 73(a), a pending post-trial motion under Rule 59 rendered ineffective a notice of appeal filed before disposition of the motion. We stated, “It seems only fair and equitable to require an appellant who . . . files a motion under Rule 59 to file a simple notice of appeal within [the proper time] after his motion has been denied.” 658 P.2d at 1187 (emphasis added). See also Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61, 103 S.Ct. 400, 403, 74 L.Ed.2d 225 (1982) (under Rule 4(a) of the Federal Rules of Appellate Procedure, a notice of appeal filed while a post-trial motion is pending is “a nullity” and the effect “is as if no notice of appeal were filed at all”); Skagerberg v. Oklahoma, 797 F.2d 881, 883 (10th Cir.1986). Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context	

Assertion #35	Verify	Explore more
As Guardian State Bank v. Stangl confirms, the repeal occurred in 1985. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	**Supporting passage 1:** Guardian State Bank ("Guardian") appeals a judgment against it on defendant Stangl's counterclaim. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context **Supporting passage 2:** A. To my recollection. Russell Webb, who initially negotiated and ultimately approved the transaction with Stangl, agreed that he did not "understand or have any kind of understanding that [Stangl] was seeking any kind of endorser liability back against the bank." In fact, Webb flatly stated that he would have refused to sign the documents if he had known that Stangl sought indorser liability from Guardian. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context **Supporting passage 3:** A. I think I said I had no discussions with him that Mr. Stangl had any desire to go against the bank. Q. Did the subject even come up? Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Citing References** Cases citing Guardian State Bank v. Stangl **Parallel Search** Cases with similar language

Supporting passage 4:

Stangl was a fifty-percent shareholder in, and an officer and director of, Sargetis Fine Cars, Inc., a car dealership in Price, Utah, which Stangl co-owned with John Sargetis. In August, 1979, the dealership obtained a loan of $150,000 from Empire State Bank, the predecessor of Guardian. The dealership executed a promissory note (the “Sargetis note”) for $150,000 payable on demand. Stangl and Sargetis executed continuing guaranties of all debts and obligations owed Guardian by the dealership.

Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context

Supporting passage 5:

Thereafter, Maak and Guardian's attorney, Jerry Dearinger, met to effectuate the agreement between Stangl and Guardian. Maak requested that Guardian transfer its rights under the Sargetis note to Stangl upon Stangl's payment of the note. The transaction was to be structured as a purchase by Stangl of the Sargetis note. In May, 1981, Stangl paid Guardian $8,104, the interest then owed on the Sargetis note and executed a new promissory note (the “Stangl note”) in favor of Guardian for $132,000, the unpaid balance of the Sargetis note. The Stangl note was to be

	repaid in two equal installments on July 10, 1981, and July 11, 1982. The note stated that Stangl gave Guardian the note for the purchase of the Sargetis note. Guardian assigned to Stangl the guaranty of the Sargetis note, indorsed the Sargetis note, and gave it to Stangl. Inexplicably, Guardian indorsed the Sargetis note in blank. Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989) - Show in Context	
Assertion #36	**Verify**	**Explore more**
The functions previously served by old Rule 73 were transferred to the Utah Rules of Appellate Procedure, particularly Rule 4 (governing the time for appeal), Rule 9 (governing docketing statements), and Rule 11 (governing the record on appeal).	**Authority found** Although the Insurance Code specifically outlines procedures governing appeals from the Insurance Commissioner's decisions, there is nothing therein which is inconsistent or in conflict with the application of the Rules of Civil Procedure which provide for a limit on the time to appeal. In National Advertising Co. v. Utah State Road Commission, we stated the time limit on appeals in the Rules of Civil Procedure applied to a review of the Road Commission, although the Commission had formulated its own rule on timeliness. Rule 81(d) makes it clear the one month time limit for appeals in Rule 73 applies to appeals from the Insurance Commissioner's decisions, since the statutory scheme fails to	**Key Numbers** 217k1070 Insurance > Judicial remedies and review **Parallel Search** Cases with similar language

	provide for any limit. See: Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S., 579 P.2d 1327 (Utah 1978)	
Assertion #37	**Verify**	**Explore more**
The parallel transition had already occurred at the federal level in 1968, when the Federal Rules of Appellate Procedure were adopted and former federal Rule 73(g)'s 40-day docketing requirement was absorbed into Federal Rule of Appellate Procedure 11(a), which similarly requires transmission of the record within 40 days after the filing of the notice of appeal. § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.)	See: § 1167 Prohibitions on Extending Time, 4B Fed. Prac. & Proc. Civ. § 1167 (4th ed.)	**Citing References** Cases citing § 1167 Prohibitions on Extending Time **Parallel Search** Cases with similar language
Assertion #38	**Verify**	**Explore more**
The current Utah Rule 73 — effective May 1, 2026 in its most recent version — is an entirely different rule governing attorney fees. Utah R. Civ. P. 73	**Supporting passage 1:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with

	Context **Supporting passage 2:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** (f) Fees. Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in this paragraph, and only where the augmented fees sought exceed those fees that were already awarded. Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** (e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct.	similar language

	Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (a) Time in Which to Claim. Attorney fees may be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f), or in accordance with Utah Code section 75-3-718 when no objection to the fee has been made. Utah R. Civ. P. 73 - Show in Context	
Assertion #39	**Verify**	**Explore more**
It contains subsections (a) through (f) only, covering the time for claiming fees, the content of motions, supporting affidavits, liability determinations, fees claimed in complaints, and a schedule of fees for various proceedings. Utah R. Civ. P. 73	**Supporting passage 1:** (d) Liability for Fees. The court may decide issues of liability for fees before receiving submissions on the value of services. If the court has already determined liability for fees, the party claiming them may file an affidavit as provided in paragraph (c) and a proposed order. The court may enter an order for the claimed amount unless another party objects within seven days after the affidavit and proposed order are filed. Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:**	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	(b) Content of Motion. The motion must: (3) specify factors showing the reasonableness of the fees, if applicable; Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** (f) Fees. Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in this paragraph, and only where the augmented fees sought exceed those fees that were already awarded. Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (b) Content of Motion. The motion must: (4) specify the amount of attorney fees claimed and any amount previously awarded; and	

	Utah R. Civ. P. 73 - Show in Context	
Assertion #40	**Verify**	**Explore more**
There is no subsection (g). Utah R. Civ. P. 73	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (a) Time in Which to Claim. Attorney fees may be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f), or in accordance with Utah Code section 75-3-718 when no objection to the fee has been made. Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Supporting passage 4: (b) Content of Motion. The motion must: (2) disclose, if the court orders, the terms of any agreement about fees for the services for which the claim is made; Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (4) Fees in Excess of the Schedule. If a party seeks attorney fees in excess of the amounts set forth in this paragraph , then the party must comply with paragraphs (a) through (c). Utah R. Civ. P. 73 - Show in Context	
Assertion #41	**Verify**	**Explore more**
Yet Rule 58A(f) of the current Utah Rules of Civil Procedure contains a cross-reference to a nonexistent provision: "Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4." Utah R. Civ. P. 58A	While the statement accurately quotes the language of Rule 58A(f) as it appears in the current Utah Rules of Civil Procedure, the critical claim that this rule contains a cross-reference to a nonexistent provision—specifically Rule 73(g)—cannot be verified or substantiated by the reference materials provided, which contain only Rule 58A and do not supply the full text of Rule 73 or evidence establishing that subdivision (g) does not exist. **Supporting passage 1:**	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

(g) Notice of Judgment. The party preparing the judgment shall promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 2:

(f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 3:

(b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 4:

	(4) Filing Proposed Judgment. The party preparing a proposed judgment must file it: (B) after the time to object to the form of the judgment has expired; (The party preparing the proposed judgment must also file a certificate of service of the proposed judgment.) or Utah R. Civ. P. 58A - Show in Context **Supporting passage 5:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (4) for relief under Rule 60; or Utah R. Civ. P. 58A - Show in Context	
Assertion #42	**Verify**	**Explore more**
The Utah Court of Appeals in McQuarrie v. McQuarrie analyzed Rule 58A(f) in detail, explaining that it is addressed to situations where a party files a post-judgment motion for attorney fees, and that it mirrors the language of Utah Rule of Appellate Procedure 4(b)(1)(F). McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096	**Supporting passage 1:** Contrary to Husband's arguments, the changes in rule 58A did not affect the appealability of the order in this case. Rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure states: “If a party timely files in the trial court any of the following, the time for all the parties to appeal from the judgment runs from the entry of the dispositive order: . . . a motion or claim for attorney fees under rule 73 of the Utah Rules	**Key Numbers** 30k82(4) Appeal and Error > Relating to costs 134k1224 Divorce > Time of taking proceedings 134k1207 Divorce > Finality of determination **Precision Research**

	of Civil Procedure." Utah R. App. P. 4(b)(1)(F). Rule 73, like rule 4(b), is addressed to post-judgment motions. See Utah R. Civ. P. 73(b)(1) ("The motion must: . . . specify the judgment and the statute, rule, contract, or other basis entitling the party to the award . . . . "). Under subsection 4(b)(2), if a notice of appeal is filed after entry of a judgment but before entry of an order resolving the post-judgment motion for attorney fees, then the notice of appeal will relate forward to the date the motion for attorney fees is resolved. See Utah Rule App. P. 4(b)(2). However, rule 4(b)(1)(F) is not applicable to this case because no post-judgment motion for attorney fees was ever filed. In its August 9, 2017 order, the district court awarded attorney fees in an amount to be determined at a later date. Thus, the order, by its own terms, contemplated additional actions by the parties in order to resolve issues still in dispute. Accordingly, because rule 4(b)(1)(F) applies only to post-judgment motions for attorney fees and no such motion was filed in this case, traditional case law concerning the finality of judgment for purposes of appeal still applies. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context **Supporting passage 2:**	Appeal of Final Judgment or Order > Final Judgment **Citing References** Cases citing McQuarrie v. McQuarrie **Parallel Search** Cases with similar language

	Rule 58A(f) of the Utah Rules of Civil Procedure does not alter this court's analysis. While rule 58A(f) does not reference rule 73 of the Utah Rules of Civil Procedure, it mirrors the language of rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure in stating that a "motion or claim for attorney fees" does not affect the finality of a judgment. Compare Utah R. Civ. P. 58A(f) with Utah R. App. P. 4(b)(1)(F). Rule 58A(f) expressly references rule 4 of the Rules of Appellate Procedure for determining the "time in which to file the notice of appeal." Utah R. Civ. P. 58A(f). As noted above, rule 4(b)(1)(F) sets forth the time to file a notice of appeal only when a post-judgment motion for attorney fees has been filed. Thus, it is clear that rule 58A(f) is meant to address those situations in which a party files a motion for attorney fees after entry of a judgment that otherwise would be final for purposes of appeal. It does not affect the appealability issue in this case in which the district court's order was never final because it contemplated additional actions by the parties. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context **Supporting passage 3:** Wife argues that the August 9, 2017 order is not final because the issue of attorney fees has not	

	fully been resolved. See ProMax Dev. Corp. v. Raile, 2000 UT 4, ¶ 15, 998 P.2d 254 ("[A] trial court must determine the amount of attorney fees awardable to a party before the judgment becomes final for the purposes of an appeal under Utah Rule of Appellate Procedure 3."). Husband responds that ProMax was effectively overruled by a recent amendment to rule 58A of the Utah Rules of Civil Procedure. Specifically, rule 58A(f) states: "A motion or claim for attorney fees does not affect the finality of a judgment for any purpose, but under Rule of Appellate Procedure 4, the time in which to file the notice of appeal runs from the disposition of the motion or claim." Utah R. Civ. P. 58A(f). The advisory committee note to the rule states that the changes to the rule "are part of a coordinated effort to . . . change the effect of a motion for attorney fees on the appealability of a judgment. The combined amendments of this rule and Rule of Appellate Procedure 4 effectively overturn ProMax Development Corp. v. Raile, 2000 UT 4, 998 P.2d 254." Id. R. 58A advisory committee note. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context **Supporting passage 4:** Melvin McQuarrie (Husband) appeals the August 9, 2017 order dismissing the parties'	

	respective petitions to modify their divorce decree. This matter is before the court on Janette Colledge McQuarrie's (Wife) motion for summary disposition based upon lack of jurisdiction due to the absence of a final, appealable order. Specifically, she argues that the August 9, 2017 order is not final because it awarded Wife attorney fees in an amount to be determined at a later date. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context **Supporting passage 5:** This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order. See Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (citation and internal quotation marks omitted); see also Utah R. Civ. P. 54(b). McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context	
Assertion #43	**Verify**	**Explore more**
The court noted that Rule 58A(f) expressly references	**Supporting passage 1:**	**Key Numbers** 30k82(4) Appeal

Rule 4 of the Rules of Appellate Procedure for determining the time to file a notice of appeal. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096	Rule 58A(f) of the Utah Rules of Civil Procedure does not alter this court's analysis. While rule 58A(f) does not reference rule 73 of the Utah Rules of Civil Procedure, it mirrors the language of rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure in stating that a "motion or claim for attorney fees" does not affect the finality of a judgment. Compare Utah R. Civ. P. 58A(f) with Utah R. App. P. 4(b)(1)(F). Rule 58A(f) expressly references rule 4 of the Rules of Appellate Procedure for determining the "time in which to file the notice of appeal." Utah R. Civ. P. 58A(f). As noted above, rule 4(b)(1)(F) sets forth the time to file a notice of appeal only when a post-judgment motion for attorney fees has been filed. Thus, it is clear that rule 58A(f) is meant to address those situations in which a party files a motion for attorney fees after entry of a judgment that otherwise would be final for purposes of appeal. It does not affect the appealability issue in this case in which the district court's order was never final because it contemplated additional actions by the parties. McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context **Supporting passage 2:** Contrary to Husband's arguments, the changes in rule 58A did not affect the	and Error > Relating to costs 134k1224 Divorce > Time of taking proceedings 134k1207 Divorce > Finality of determination **Precision Research** Appeal of Final Judgment or Order > Final Judgment **Citing References** Cases citing McQuarrie v. McQuarrie **Parallel Search** Cases with similar language

	appealability of the order in this case. Rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure states: “If a party timely files in the trial court any of the following, the time for all the parties to appeal from the judgment runs from the entry of the dispositive order: . . . a motion or claim for attorney fees under rule 73 of the Utah Rules of Civil Procedure.” Utah R. App. P. 4(b)(1)(F). Rule 73, like rule 4(b), is addressed to post-judgment motions. See Utah R. Civ. P. 73(b)(1) (“The motion must: . . . specify the judgment and the statute, rule, contract, or other basis entitling the party to the award . . . . ”). Under subsection 4(b)(2), if a notice of appeal is filed after entry of a judgment but before entry of an order resolving the post-judgment motion for attorney fees, then the notice of appeal will relate forward to the date the motion for attorney fees is resolved. See Utah Rule App. P. 4(b)(2). However, rule 4(b)(1)(F) is not applicable to this case because no post-judgment motion for attorney fees was ever filed. In its August 9, 2017 order, the district court awarded attorney fees in an amount to be determined at a later date. Thus, the order, by its own terms, contemplated additional actions by the parties in order to resolve issues still in dispute. Accordingly, because rule 4(b)(1)(F) applies only to post-judgment motions for attorney fees and no such motion was	

filed in this case, traditional case law concerning the finality of judgment for purposes of appeal still applies.

McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context

Supporting passage 3:

Wife argues that the August 9, 2017 order is not final because the issue of attorney fees has not fully been resolved. See ProMax Dev. Corp. v. Raile, 2000 UT 4, ¶ 15, 998 P.2d 254 ("[A] trial court must determine the amount of attorney fees awardable to a party before the judgment becomes final for the purposes of an appeal under Utah Rule of Appellate Procedure 3."). Husband responds that ProMax was effectively overruled by a recent amendment to rule 58A of the Utah Rules of Civil Procedure. Specifically, rule 58A(f) states: "A motion or claim for attorney fees does not affect the finality of a judgment for any purpose, but under Rule of Appellate Procedure 4, the time in which to file the notice of appeal runs from the disposition of the motion or claim." Utah R. Civ. P. 58A(f). The advisory committee note to the rule states that the changes to the rule "are part of a coordinated effort to . . . change the effect of a motion for attorney fees on the appealability of a judgment. The combined amendments of this rule and Rule of Appellate Procedure 4

effectively overturn ProMax Development Corp. v. Raile, 2000 UT 4, 998 P.2d 254." Id. R. 58A advisory committee note.

McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context

Supporting passage 4:

Accordingly, because the August 9, 2017 order was not final for purposes of appeal this court lacks jurisdiction to hear the appeal. When this court lacks jurisdiction, it must dismiss the appeal. See Loffredo, 2001 UT 97, ¶ 11, 37 P.3d 1070. The appeal is, therefore, dismissed without prejudice to the filing of a timely appeal after the district court enters a final, appealable order.

McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context

Supporting passage 5:

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order. See Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (citation and internal quotation marks omitted); see also Utah R.

	Civ. P. 54(b). McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096 - Show in Context	
Assertion #44	**Verify**	**Explore more**
The substantive exception that Rule 58A(f)'s reference to "Rule 73(g)" appears to contemplate is codified in Utah Code Ann. § 78A-3-102(3)(c), which provides that in cases involving an election or voting contest or the establishment of political district boundaries, a judgment is appealable to the Utah Supreme Court even if a party has filed a motion or claim for attorney fees under Rule 73 and the district court has not yet entered a dispositive order on that motion. Utah Code Ann. § 78A-3-102 (West)	This quote doesn't match the exact language from the case: Found 1 invalid quote(s). The quote 'Rule 73(g)' does not appear in the source document. The source document is Utah Code Annotated Title 78a, Chapter 3, Section 78A-3-102 concerning the Jurisdiction of Supreme Court. While the document contains a reference to 'Rule 73 of the Utah Rules of Civil Procedure' in sentence 1-9, this reference does not include any subsection designation like '(g)', nor does it present the text 'Rule 73(g)' as a standalone phrase or quotation. The quote cannot be located anywhere in the source document. **Supporting passage 1:** (c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and Utah Code Ann. § 78A-3-102	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

(West) - Show in Context

Supporting passage 2:

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (ii) the district court has not entered a dispositive order for that motion or claim.

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 3:

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if:

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 4:

(3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over: (viii) a judgment, or an interlocutory appeal of an order, of a district court involving: (B) the establishment of boundaries of political districts for purposes of an election;

Utah Code Ann. § 78A-3-102

	(West) - Show in Context **Supporting passage 5:** (3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over: (viii) a judgment, or an interlocutory appeal of an order, of a district court involving: (A) an election or voting contest; or Utah Code Ann. § 78A-3-102 (West) - Show in Context	
Assertion #45	**Verify**	**Explore more**
This statutory provision effectively creates the exception that a "Rule 73(g)" would have codified within the rules themselves. Utah Code Ann. § 78A-3-102 (West)	This quote doesn't match the exact language from the case: Found 1 invalid quote(s). The quote 'Rule 73(g)' does not appear anywhere in the source document. The source document is Utah Code Annotated Title 78a Chapter 3, which concerns the Supreme Court's jurisdiction. While the source document contains a reference to 'Rule 73 of the Utah Rules of Civil Procedure' in sentence 1-9, it does not contain the text 'Rule 73(g)' or any subsection designation of that rule. A search of the entire document yields no match for this quotation. **Supporting passage 1:** (7) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	the Supreme Court's review of an agency adjudicative proceeding. Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 2:** (c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 3:** (b) The Supreme Court may not transfer any matter described in Subsection (3)(a) to the Court of Appeals. Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 4:** (4)(a) In addition to Subsection (3)(a), the Supreme Court has original appellate jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over: (vi) an order, judgment, or decree of a court of record over which the Court of Appeals does not have appellate	

	jurisdiction. Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 5:** (b) The Supreme Court may transfer any matter described in Subsection (4)(a) to the Court of Appeals. Utah Code Ann. § 78A-3-102 (West) - Show in Context	
Assertion #46	**Verify**	**Explore more**
The cross-reference in Rule 58A(f) thus appears to be a drafting artifact pointing to a provision that was contemplated for inclusion in Rule 73 but was never enacted, with the substantive exception instead remaining in the Utah Code. Utah R. Civ. P. 58A	**Supporting passage 1:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (2) to amend or make additional findings under Rule 52(b); Utah R. Civ. P. 58A - Show in Context **Supporting passage 2:** (f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4. Utah R. Civ. P. 58A - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Context **Supporting passage 3:** (c) Preparing a Judgment. Utah R. Civ. P. 58A - Show in Context **Supporting passage 4:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73. Utah R. Civ. P. 58A - Show in Context **Supporting passage 5:** (a) Separate Document Required. Every judgment and amended judgment must be set out in a separate document ordinarily titled "Judgment"--or, as appropriate, "Decree." Utah R. Civ. P. 58A - Show in Context	
Assertion #47	**Verify**	**Explore more**
The cross-reference in Rule 58A(f) thus appears to be a drafting artifact pointing to a provision that was contemplated for inclusion in Rule 73 but was never enacted, with the substantive exception instead remaining in the	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with

Utah Code. Utah R. Civ. P. 73	Context **Supporting passage 2:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** (e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:**	similar language

	Action Any subsequent application for a writ under Rule 64D to the same garnishee; Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #48	**Verify**	**Explore more**
The cross-reference in Rule 58A(f) thus appears to be a drafting artifact pointing to a provision that was contemplated for inclusion in Rule 73 but was never enacted, with the substantive exception instead remaining in the Utah Code. Utah Code Ann. § 78A-3-102 (West)	**Supporting passage 1:** (4)(a) In addition to Subsection (3)(a), the Supreme Court has original appellate jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over: (iii) a final judgment or decree of a court of record holding a statute of the United States or this state is unconstitutional on its face under the Constitution of the United States or the Utah Constitution; Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 2:** (c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and Utah Code Ann. § 78A-3-102 (West) - Show in Context	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

Supporting passage 3:

(7) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the Supreme Court's review of an agency adjudicative proceeding.

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 4:

(b) The Supreme Court may not transfer any matter described in Subsection (3)(a) to the Court of Appeals.

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 5:

(4)(a) In addition to Subsection (3)(a), the Supreme Court has original appellate jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over: (i) a final agency action, as described in Section 63G-4-403, in a formal adjudicative proceeding originating from: (F) the executive director of the Department of Natural Resources reviewing an action of the Division of Forestry, Fire, and State Lands;

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Assertion #49	Verify	Explore more
Several Tenth Circuit decisions arising from the District of Utah applied the federal Rule 73(g)'s docketing requirement.	**Authority found** In short, rule 73(a) plainly set forth a general requirement aimed at parties seeking an award of attorney fees. The requirement was simply that "[a]ttorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment [was] entered." Utah R. Civ. P. 73(a) (effective May 1, 2019). Because the "no objection" clause of rule 73(a) was plainly connected only to the exceptions to the general rule and not to the general rule itself, the "no objection" clause imposed no requirement on a party—like Tami—who contested an award of attorney fees outside the context of rule 73(f) and section 75-3-718 to file a document titled "objection" that contested the amount of the fees that were claimed. See: Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Key Numbers** 30k3192 Appeal and Error > Rules of court in general **Parallel Search** Cases with similar language
Assertion #50	**Verify**	**Explore more**
In Adoue v. Texas Gulf Producing Co., an appeal from the United States District Court for the District of Utah, the Tenth Circuit denied a motion to docket an appeal out of time	**Supporting passage 1:** In this case the record on appeal was not docketed within the time required by Rule 73(g), F.R.Civ.P., 28 U.S.C.A. Pursuant to our Rule 15, subd. 1, 28	**Key Numbers** 170Bk3435 Federal Courts > Effect of delay and excuses in general

where the record had not been docketed within the time required by federal Rule 73(g) and the appellant had failed to comply with a conditional order requiring the filing of a supersedeas bond. Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961)	U.S.C.A., appellee filed a motion to docket and dismiss the appeal. Thereafter the appellant presented his motion for permission to docket out of time. On January 13, 1961, this court entered its order permitting the docketing of appeal out of time on condition that a supersedeas bond in the sum of $65,000 be filed with this court on or before January 25, 1961. This time was later extended to February 24, 1961. No supersedeas bond has been filed and there has been no response by the attorney for the appellant to inquiry from the clerk of the court in regard thereto. Accordingly, it is ordered that the motion of the appellant for leave to docket out of time is denied and the motion of the appellee to docket and dismiss is granted. The appeal is forthwith dismissed. Adoue v. Texas Gulf Producing Co., 289 F.2d 607 (10th Cir. 1961) - Show in Context	**Parallel Search** Cases with similar language
Assertion #51	**Verify**	**Explore more**
In Lopata v. Handler, the Tenth Circuit dismissed an appeal where the appellants had not served a copy of their designation of record on the appellees and had not filed a concise statement of points on appeal, holding that they had not complied with federal Rules 73(g) and 75(a) and (d).	**Supporting passage 1:** On April 28, 1941, the plaintiffs filed in the trial court a designation of the record on appeal. A copy thereof was not served either upon the individual defendants or the corporation. The designation did not include the complete record and the plaintiffs did not file nor serve upon either the corporation or	**Key Numbers** 170Bk3471 Federal Courts > Record > In general **Citing References** Cases citing Lopata v. Handler

Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941)	the individual defendants a concise statement of the points on which they intended to rely on the appeal. The plaintiffs, therefore, failed to comply with Rule 75(a) and (d) of the Rules of Civil Procedure. Plaintiffs did not, when the record was filed in this court, nor within five days thereafter, nor at any other time, file with the clerk of this court a definite statement of the points on which they intended to rely and of the parts of the record which they deemed necessary for the consideration thereof as required by Rule 13 of this court. See Leimer v. State Mut. L. Assur. Co., 8 Cir., 107 F.2d 1003. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 2:** The notice of appeal was dated March 21, 1941. The record of appeal was filed in this court May 9, 1941. Rule 73(g) of the Rules of Civil Procedure, 28 U.S.C.A.following section 723(c), requires the record on appeal to be 'filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal.' Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 3:**	**Parallel Search** Cases with similar language

	The individual defendants and the corporation have moved to dismiss the appeal. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 4:** Arnest Lopata and twelve other individuals brought this action against S. B. Handler, M. H. Holden, Hubert D. Meyer, and the Hanfield Petroleum & Royalty Corporation in the District Court of Okmulgee County, Oklahoma. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context **Supporting passage 5:** Furthermore, it is our opinion that the record discloses no prejudicial error. The appeal is therefore, dismissed. Lopata v. Handler, 121 F.2d 938 (10th Cir. 1941) - Show in Context	
Assertion #52	**Verify**	**Explore more**
In Brennan v. U.S. Gypsum Co., the Tenth Circuit held that failure to file the record on appeal within 40 days as required by federal Rule 73(g) and failure to pay the docket fee did not deprive the court of jurisdiction, but constituted grounds for	**Supporting passage 1:** Brennan makes no adequate explanation of his disregard of the rules. His controversy is with the defendants who were sued by Gypsum. A consideration of the record convinces us that his nebulous claims against Gypsum	**Key Numbers** 170Bk3478 Federal Courts > Transmission and filing of record 102k933 Costs, Fees, and Sanctions >

such action as the court deemed appropriate — including dismissal.

Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964)

are entirely frivolous. In the circumstances the proper exercise of our discretionary powers requires that the motion to docket and dismiss be granted. The appeal is dismissed as to United States Gypsum Company.

Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964) - Show in Context

Supporting passage 2:

Rule 73(g), F.R.Civ.P., requires that the record on appeal be filed in the appellate court within 40 days from the filing of the notice of appeal. This was not done and no extension of time was granted by the trial court or by this court. Although the record has now been lodged with the Clerk of the Court of Appeals, the $25 docket fee required by the court's Rule 15(6) has not been paid. The cost bond does not name Gypsum as an obligee.

Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964) - Show in Context

Supporting passage 3:

These failures do not deprive the court of jurisdiction but they are grounds for such action as the court deems appropriate.

Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964) - Show in Context

Payment of Costs and Fees in General > In general
102k937 Costs, Fees, and Sanctions > Time for payment

Citing References
Cases citing Brennan v. U.S. Gypsum Co.

Parallel Search
Cases with similar language

Supporting passage 4:

Judgment on the patent issues was entered September 23, 1963, and on the intervention issues, October 14, 1963. Brennan's notice of appeal purported to go to each judgment and was received by the Clerk of the District Court on October 22, 1963, within the 30-day period provided by 28 U.S.C. § 2107. The filing fee required by 28 U.S.C. § 1917 was not paid until November 4, 1963. Untimely payment of the fee did not vitiate the validity of the notice of appeal.

Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964) - Show in Context

Supporting passage 5:

Appellee United States Gypsum Company (Gypsum) has filed a motion under Rule 75(j), F.R.Civ.P., to docket and dismiss the appeal as to it. The suit was brought by Gypsum against Rock Wool Insulating Company and four others to recover damages for patent infringement and resulted in a judgment for Gypsum which has been satisfied. Appellant Brennan intervened in the patent suit. The trial court said that Brennan's interest was ‘that of a stockholder of Rock Wool Insulating Company, who is attempting to ascertain the state of affairs of said company.' The issues raised by the intervention

	were tried separately and decided against Brennan. Brennan v. U.S. Gypsum Co., 330 F.2d 728 (10th Cir. 1964) - Show in Context	
Assertion #53	**Verify**	**Explore more**
The United States Supreme Court in Pyramid Motor Freight Corp. v. Ispass addressed the federal Rule 73(g) docketing requirement directly, holding that a Circuit Court of Appeals properly exercised its discretion in denying a motion to dismiss an appeal for failure to docket within the time required by federal Rule 73(g), where the appellants had obtained an extension of time from a single circuit judge to file the record on appeal, even though the extension was obtained more than 90 days after the notice of appeal was filed. Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947)	**Supporting passage 1:** Notice of appeal, dated March 29, 1945, was filed by the respondents in the District Court April 2, 1945. In spite of the applicable provisions of Rule 73(g) of the Federal Rules of Civil Procedure, respondents sought from the District Court no extension of time within which to docket their appeal or file a transcript of the record. On July 20, 1945, more than 90 days from the date of the first notice of appeal, respondents, pursuant to motion supported by affidavit, secured from Circuit Judge Augustus N. Hand an order extending to September 1, 1945, the time within which to serve and file their record on appeal. On that date, the transcript of record was filed. The petitioner promptly moved to dismiss the appeal under Rule 73(a) of the Federal Rules of Civil Procedure, questioning especially the right of a single member of that court to make the order of July 20. This motion was denied October 10, 1945, Circuit Judges Learned Hand, Swan and Clark speaking for the court. The motion was renewed at the hearing on the	**Key Numbers** 170Bk3471 Federal Courts > Record > In general 170Bk3371 Federal Courts > Certification and Leave to Appeal > In general **Citing References** Cases citing Pyramid Motor Freight Corp. v. Ispass **Parallel Search** Cases with similar language

merits of the appeal and, on December 28, 1945, was denied again, Circuit Judges Learned Hand, Swan and Frank speaking for the court. 2 Cir., 152 F.2d 619. The issue was raised properly and fully presented here.

Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) - Show in Context

Supporting passage 2:

This case presents two issues: I. Was it reversible error for the Circuit Court of Appeals, 2 Cir., 152 F.2d 619, to deny petitioner's motion to dismiss the appeal, made on the ground that the appeal had not been docketed and the transcript of record had not been filed within the time specified in Rule 73(g) of the Federal Rules of Civil Procedure, 28 U.S.C.A. following section 723c? We hold that it was not.

Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) - Show in Context

Supporting passage 3:

The authority of a Judge of the Circuit Court of Appeals for the Second Circuit to extend the time for filing the record on appeal appears to be supported by Rule 15 of that court. That Rule,

however, was not discussed by counsel and we sustain the action taken by the Circuit Court of Appeals under authority of Rule 73(a), even without reference to its own Rule 15.

Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) - Show in Context

Supporting passage 4:

The principal argument against the final action of the Circuit Court of Appeals on this motion is based upon the following statement in that court's opinion: 'In the case at bar there was no abuse of discretion in extending the time, despite the somewhat feeble excuses for delay, since the appeal presents a substantial question as to the correctness of the judgment.' (Italics supplied.) 2 Cir., 152 F.2d 619, 621. It is urged that this shows that the court based its refusal to dismiss the appeal on the substantiality of the question to be presented on the merits of the appeal, rather than on the substantiality of the excuses for the delay in filing the record.

Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) - Show in Context

Supporting passage 5:

We interpret the statement as no

	more than a recognition by the court that the substantiality of the question to be at issue on the merits of the appeal was a matter appropriate for its consideration under Rule 73(a), in connection with all the other circumstances before It. Rule 73(a) is intended to place reliance upon the sound discretion of the Circuit Court of Appeals. We see no reason to question the discretion exercised in this case as evidenced by the agreement of all of the five Circuit Judges to whom the issue was rpesented. Ainsworth v. Gill Glass & Fixture Co., 3 Cir., 104 F.2d 83; Mutual Benefit Health & Accident Ass'n v. Snyder, 6 Cir., 109 F.2d 469; Burke v. Canfield, 72 App.D.C. 127, 111 F.2d 526; United States v. Gallagher, 9 Cir., 151 F.2d 556. Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, 67 S. Ct. 954, 91 L. Ed. 1184 (1947) - Show in Context	
Assertion #54	**Verify**	**Explore more**
The absence of Utah Rule 73(g) from the current rules has two distinct practical dimensions.	**Authority found** The version of Rule 73(a) of the Utah Rules of Civil Procedure in effect at the time the Guardians filed their motion for attorney fees stated, See: Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Key Numbers** 102k897 Costs, Fees, and Sanctions > Objections and exceptions **Precision Research** Motion Practice > Compliance

		with Local Rule **Parallel Search** Cases with similar language
Assertion #55	**Verify**	**Explore more**
For practitioners researching historical Utah appellate procedure from before 1985, the old Rule 73 framework — including subsection (g)'s docketing requirements — governed the mechanics of perfecting an appeal to the Utah Supreme Court. Utah R. Civ. P. 73	The statement's attribution of appellate docketing procedures to Utah Rules of Civil Procedure Rule 73 appears problematic, as the cited reference addresses only attorney fees in civil litigation and contains no historical subsection (g), docketing requirements, or appellate mechanics, suggesting a possible confusion between the civil procedure rule and what may be a distinct appellate procedure framework. **Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

(3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (B) files a motion under Rules 64(c)(2) or 58C or under Utah Code section 35A-4-314,

Utah R. Civ. P. 73 - Show in Context

Supporting passage 5:

(a) Time in Which to Claim. Attorney fees may be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f), or in accordance with Utah Code section 75-3-718 when no objection to the fee has been made.

Utah R. Civ. P. 73 - Show in Context

Assertion #56	Verify	Explore more
Those requirements have since been superseded by the Utah Rules of Appellate Procedure, particularly Rules 3, 4, 9, and 11, which now govern the filing of notices of appeal, docketing statements, and the record on appeal.	**Authority found** The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial motions, the notice of appeal was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension of time in which to file a notice of appeal. That motion was filed because of an ambiguity in the rules. Rule 73(a) of the Utah Rules of Civil Procedure (as well as Rule 4(b) of the current Rules of the Utah Supreme Court) provides that the time for filing a notice of appeal begins to run again when an order denying the post-judgment motion is entered. However, the rule does not address the situation where no order is entered because the pretrial motions are voluntarily withdrawn. See: Guardian State Bank v. Stangl, 778 P.2d 1 (Utah 1989)	**Key Numbers** 30k428(2) Appeal and Error > Time for Filing **Parallel Search** Cases with similar language
Assertion #57	**Verify**	**Explore more**

For practitioners working with the current rules, the cross-reference in Rule 58A(f) to "Rule 73(g)" creates a potential trap.

Utah R. Civ. P. 58A

Supporting passage 1:

(c) Preparing a Judgment.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 2:

(f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 3:

(b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (2) to amend or make additional findings under Rule 52(b);

Utah R. Civ. P. 58A - Show in Context

Supporting passage 4:

(b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73.

Citing References
Cases interpreting this statute

Parallel Search
Cases with similar language

	Utah R. Civ. P. 58A - Show in Context **Supporting passage 5:** (g) Notice of Judgment. The party preparing the judgment shall promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement. Utah R. Civ. P. 58A - Show in Context	
Assertion #58	**Verify**	**Explore more**
For practitioners working with the current rules, the cross-reference in Rule 58A(f) to "Rule 73(g)" creates a potential trap. Utah R. Civ. P. 73	**Supporting passage 1:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** Action Any subsequent application for a writ under Rule 64D to the same garnishee; Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (A) applies for any writ under Rules 64, 64A, 64B, 64C, 64D, or 64E; or Utah R. Civ. P. 73 - Show in Context	
Assertion #59	**Verify**	**Explore more**

The provision that Rule 58A(f) appears to except — relating to election and voting contests — is actually codified in Utah Code Ann. § 78A-3-102(3)(c), not in Rule 73.

Utah Code Ann. § 78A-3-102 (West)

Supporting passage 1:

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (ii) the district court has not entered a dispositive order for that motion or claim.

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 2:

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Supporting passage 3:

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if:

Utah Code Ann. § 78A-3-102 (West) - Show in Context

Citing References
Cases interpreting this statute

Parallel Search
Cases with similar language

	Supporting passage 4: (3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over: (viii) a judgment, or an interlocutory appeal of an order, of a district court involving: (A) an election or voting contest; or Utah Code Ann. § 78A-3-102 (West) - Show in Context **Supporting passage 5:** (3)(a) The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over: (x) a judgment, or an interlocutory appeal of an order, from a district court panel described in Section 78A-5-102.7. Utah Code Ann. § 78A-3-102 (West) - Show in Context	
Assertion #60	**Verify**	**Explore more**
The provision that Rule 58A(f) appears to except — relating to election and voting contests — is actually codified in Utah Code Ann. § 78A-3-102(3)(c), not in Rule 73. Utah R. Civ. P. 58A	**Supporting passage 1:** (c) Preparing a Judgment. Utah R. Civ. P. 58A - Show in Context **Supporting passage 2:** (f) Award of Attorney Fees. A motion or claim for attorney fees	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4. Utah R. Civ. P. 58A - Show in Context **Supporting passage 3:** (1) Preparing and Serving a Proposed Judgment. The prevailing party or a party directed by the court must prepare and serve on the other parties a proposed judgment for review and approval as to form. The proposed judgment shall be served within 14 days after the jury verdict or after the court's decision. If the prevailing party or party directed by the court fails to timely serve a proposed judgment, any other party may prepare a proposed judgment and serve it on the other parties for review and approval as to form. Utah R. Civ. P. 58A - Show in Context **Supporting passage 4:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73.	

	Utah R. Civ. P. 58A - Show in Context **Supporting passage 5:** (4) Filing Proposed Judgment. The party preparing a proposed judgment must file it: (A) after all other parties have approved the form of the judgment; (The party preparing the proposed judgment must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.) Utah R. Civ. P. 58A - Show in Context	
Assertion #61	**Verify**	**Explore more**
The provision that Rule 58A(f) appears to except — relating to election and voting contests — is actually codified in Utah Code Ann. § 78A-3-102(3)(c), not in Rule 73. Utah R. Civ. P. 73	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (3) Post-judgment Collections. When a party has established an entitlement to attorney fees under any paragraph of this rule, and subsequently: (B) files a motion under Rules 64(c)(2) or 58C or under Utah Code section 35A-4-314, Utah R. Civ. P. 73 - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Context **Supporting passage 3:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 4:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** (b) Content of Motion. The motion must: (5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee, and a statement that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context	
Assertion #62	**Verify**	**Explore more**

Practitioners in election contest cases should be aware that the normal rule tolling the appeal period while an attorney fees motion is pending does not apply; the judgment remains immediately appealable to the Utah Supreme Court regardless of any pending Rule 73 attorney fees motion.	**Authority found** (c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if: (i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and See: Utah Code Ann. § 78A-3-102 (West)	**Parallel Search** Cases with similar language
Assertion #63	**Verify**	**Explore more**
The current Utah Rule 73 was most recently amended effective May 1, 2026, updating the schedule of attorney fees allowed without a supporting affidavit in various proceedings. Utah R. Civ. P. 73	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** then the party may request as part of the application for a writ or in the motion that the party's judgment be augmented according to the following schedule. The clerk or the court will allow that augmented attorney fees request without a supporting affidavit if it approves the writ or motion.	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

Utah R. Civ. P. 73 - Show in Context

Supporting passage 3:

Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00

Utah R. Civ. P. 73 - Show in Context

Supporting passage 4:

(f) Fees. Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in this paragraph, and only where the augmented fees sought exceed those fees that were already awarded.

Utah R. Civ. P. 73 - Show in Context

Supporting passage 5:

(4) Fees in Excess of the Schedule. If a party seeks attorney fees in excess of the amounts set forth in this paragraph , then the party must comply with paragraphs (a) through (c).

	Utah R. Civ. P. 73 - Show in Context	
Assertion #64	**Verify**	**Explore more**
The rule continues to contain only subsections (a) through (f), and the cross-reference in Rule 58A(f) to "Rule 73(g)" remains unresolved. Utah R. Civ. P. 73	**Supporting passage 1:** Action Any motion filed with the court under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context **Supporting passage 2:** (f) Fees. Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in this paragraph, and only where the augmented fees sought exceed those fees that were already awarded. Utah R. Civ. P. 73 - Show in Context **Supporting passage 3:** Action Any subsequent motion under Rule 64(c)(2), Utah Code section 35A-4-314, or Rule 58C filed within 6 months of the previous motion. Attorney Fees Allowed $35.00 Utah R. Civ. P. 73 - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

	Context **Supporting passage 4:** (e) Fees Claimed in Complaint. If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule 5.4 of the Utah Rules of Professional Conduct. Utah R. Civ. P. 73 - Show in Context **Supporting passage 5:** Action Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee; Attorney Fees Allowed $105.00 Utah R. Civ. P. 73 - Show in Context	
Assertion #65	**Verify**	**Explore more**
The rule continues to contain only subsections (a) through (f), and the cross-reference in Rule 58A(f) to "Rule 73(g)" remains unresolved. Utah R. Civ. P. 58A	**Supporting passage 1:** (b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (2) to amend or make additional findings under Rule 52(b); Utah R. Civ. P. 58A - Show in	**Citing References** Cases interpreting this statute **Parallel Search** Cases with similar language

Context

Supporting passage 2:

(f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 3:

(b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (1) for judgment under Rule 50(b);

Utah R. Civ. P. 58A - Show in Context

Supporting passage 4:

(b) Separate Document Not Required. A separate document is not required for an order disposing of a post-judgment motion: (5) for attorney fees under Rule 73.

Utah R. Civ. P. 58A - Show in Context

Supporting passage 5:

(b) Separate Document Not

	Required. A separate document is not required for an order disposing of a post-judgment motion: (4) for relief under Rule 60; or Utah R. Civ. P. 58A - Show in Context	
Assertion #66	**Verify**	**Explore more**
In W. Mortgage & Realty Co. v. Walker, decided August 20, 2026, the Utah Supreme Court clarified that Rule 73 is a post-trial mechanism for claiming attorney fees awarded under statute or contract, and does not require a party to claim fees after trial when attorney fees are sought as consequential damages. W. Mortg. & Realty Co. v. Walker, 2026 UT 30	**Supporting passage 1:** In general, Utah follows the so-called American Rule: a prevailing party may not recover attorney fees from the opposing side unless provided for in statute or contract. See Turtle Mgmt., Inc. v. Haggis Mgmt., Inc., 645 P.2d 667, 671 (Utah 1982). We have recognized a limited number of exceptions to the American Rule, and some of these require a party to seek fees as consequential or special damages. At issue here is a fiduciary-duty exception based on our statement in Campbell that “breach of a fiduciary obligation is a well-established exception to the American rule.” 2001 UT 89, ¶ 122, 65 P.3d 1134. Though we make no holding today on whether attorney fees may be awarded as damages for every breach of fiduciary duty, we re-affirm Campbell’s holding that any such fees must be sought as damages, and thus must be foreseeable. Id. ¶¶ 120 –25. W. Mortg. & Realty Co. v.	**Precision Research** Required Disclosures > Sufficiency of Damages Contentions **Parallel Search** Cases with similar language

Walker, 2026 UT 30 - Show in Context

Supporting passage 2:

The district court determined there was good cause for the Walkers' failure to disclose because rule 73 permitted—or as the district court saw it, required—a party to claim fees after trial. That may be true when fees are sought under a statute or contract and result from the litigation rather than the original wrongdoing. But not so with fees as consequential damages. Indeed, the Walkers were not seeking fees in the rule 73 sense, but rather were seeking consequential damages that happened to be owed to an attorney. The plain language of rule 26 requires disclosure of the "computation of any damages claimed." Utah R. Civ. P. 26(a)(1)(C). Rule 73 does not alter this requirement when the claimed damages happen to be attorney fees. Cf. Bodell Constr., 2009 UT 52, ¶ 38, 215 P.3d 933 (rejecting claim that good cause existed for delayed disclosure of damage computation because the party "complied with generally accepted litigation practices" (cleaned up)); see also USA Power, 2016 UT 20, ¶ 95, 372 P.3d 629 (holding that a contingency fee award is available "only when the award is sought as damages and the contingency fee arrangement was foreseeable"(cleaned up)).

W. Mortg. & Realty Co. v. Walker, 2026 UT 30 - Show in Context

Supporting passage 3:

These elements are part of the seeking party's case-in-chief, which is ordinarily presented at trial. See Canyon Country Store v. Bracey, 781 P.2d 414, 419–20 (Utah 1989) (explaining that issue of attorney fees as consequential damages "was part of Canyon Country's case-in-chief" and was properly "submitted to the jury as an element of damages"); Meadowbrook, LLC v. Flower, 959 P.2d 115, 117–19 & n.9 (Utah 1998) (holding that "prevailing party" attorney fees—those awarded by contract or statute—may be sought through post-trial motion, but clarifying that this rule does not apply to fees that are "an item of consequential damages," because "evidence of such fees must be presented to the jury according to established trial procedure"). Failure to prove any of these elements at the appropriate moment dooms the consequential damages claim. See, e.g., Gables at Sterling Village Homeowners Ass'n v. Castlewood-Sterling Village I, LLC, 2018 UT 04, ¶¶ 72–77, 417 P.3d 95 (explaining that a party's post-trial claim for fees as consequential damages failed because the party failed to "prove that he was entitled to the fees" during trial).

W. Mortg. & Realty Co. v. Walker, 2026 UT 30 - Show in Context

Supporting passage 4:

When a party seeks attorney fees as damages, it must comply with the usual disclosure and burden of proof requirements for damages. This includes disclosure of a contingency fee if it is part of the damages calculation and proof at trial of causation, foreseeability, and amount. By failing to initially disclose or litigate the contingency portion at trial, the Walkers lost the chance to claim it. And contrary to the district court's determinations, this failure was not for good cause or harmless. We instruct the district court to modify the Walkers' damages award accordingly.

W. Mortg. & Realty Co. v. Walker, 2026 UT 30 - Show in Context

Supporting passage 5:

The case proceeded to a bench trial. The district court rejected the Walkers' fraud claims but granted judgment in their favor on their breach of contract and breach of fiduciary duty claims, ordering Western to pay the Walkers over $1 million and maintain the rest of the property in a constructive trust. The court also awarded attorney fees as consequential damages for

	Western's breach of fiduciary duty and for Tiegs' and Tippett's aiding and abetting that breach. The court instructed the Walkers to submit their declaration of attorney fees in a post-trial rule 73 motion. See Utah R. Civ. P. 73 (providing post-trial mechanism to claim attorney fees). W. Mortg. & Realty Co. v. Walker, 2026 UT 30 - Show in Context	
Assertion #67	**Verify**	**Explore more**
In Matter of Guardianship of Matthews, decided May 14, 2026, the Utah Court of Appeals analyzed Rule 73(a)'s requirements in detail, holding that the rule does not create a general requirement for a party contesting an attorney fees award to file a document specifically titled as an "objection." Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Supporting passage 1:** The version of Rule 73(a) of the Utah Rules of Civil Procedure in effect at the time the Guardians filed their motion for attorney fees stated, Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152 - Show in Context **Supporting passage 2:** Rule 73(a) did not create a general requirement for a party who wished to contest an attorney fees award to file a document specifically titled as an "objection" that contested "the amount of the fees claimed." As already noted, the general requirement set forth in rule 73(a) was aimed at the party claiming fees and required that party to "fil[e] a motion for attorney fees no later than 14	**Key Numbers** 102k897 Costs, Fees, and Sanctions > Objections and exceptions **Precision Research** Motion Practice > Compliance with Local Rule **Parallel Search** Cases with similar language

	days after the judgment [was] entered." Id. Contrary to the district court's apparent reading, the last clause of rule 73(a)—which stated, "and no objection to the fee has been made" (the "no objection" clause)—is not part of the general rule. This is demonstrated by the grammatical infirmity that results when the language of the general rule and the "no objection" clause are placed together through omission of the other language of exception: "Attorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered . . . and no objection to the fee has been made." Id. Because of the grammatical disconnect between the general rule and the "no objection" clause, the "no objection" clause plainly placed no requirement on a party contesting an award of attorney fees to file a document titled "objection" and contest the amount of the fees that are claimed, other than perhaps in the context of rule 73(f) and Utah Code section 75-3-718. Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152 - Show in Context **Supporting passage 3:** In short, rule 73(a) plainly set forth a general requirement aimed at parties seeking an award of attorney fees. The requirement was simply that	

	"[a]ttorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment [was] entered." Utah R. Civ. P. 73(a) (effective May 1, 2019). Because the "no objection" clause of rule 73(a) was plainly connected only to the exceptions to the general rule and not to the general rule itself, the "no objection" clause imposed no requirement on a party—like Tami—who contested an award of attorney fees outside the context of rule 73(f) and section 75-3-718 to file a document titled "objection" that contested the amount of the fees that were claimed. Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152 - Show in Context **Supporting passage 4:** Instead, the "no objection" clause was plainly associated only with the circumstances under which the general filing deadline did not apply: (1) when a party sought attorney fees "as provided in paragraph (f) of [rule 73]" and (2) when a party sought attorney fees "in accordance with Utah Code [section] 75-3-718." See id. In those circumstances, the party seeking fees did not need to file a motion for fees within fourteen days after the entry of judgment—as long as "no objection to the fee ha[d] been made." This makes sense upon an examination of the circumstances addressed in	

	paragraph (f) of rule 73 and Utah Code section 75-3-718. Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152 - Show in Context **Supporting passage 5:** The Guardians argue that the delay was due to illness and the 4th of July holiday, and that [r]ule 61 [of the Utah Rules of Civil Procedure] coupled with the policy recognized by the Utah Supreme Court "in favor of deciding cases on their merits rather than on procedural technicalities" (Richards v. Baum, 914 P.2d 719, 723 (Utah 1996) (Stewart, J., dissenting)), weigh in favor of permitting the [motion for attorney fees]. Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152 - Show in Context	
Assertion #68	**Verify**	**Explore more**
Whether the cross-reference in Rule 58A(f) to "Rule 73(g)" constitutes a drafting error that should be corrected by the Utah Supreme Court's advisory committee on civil rules	**Authority found** Tami asserts that the district court's grant of the Guardians' request for attorney fees should be reversed because the court's interpretation of rule 73 of the Utah Rules of Civil Procedure to "excus[e] . . . the [G]uardians' untimely filed [m]otion for [a]ttorney [f]ees was an error as a matter of law." Tami also argues that the court's determination that the Petition	**Key Numbers** 30k3192 Appeal and Error > Rules of court in general **Precision Research** Motion Practice > Compliance with Local Rule

	was “without merit” was in error. We agree with Tami on both fronts and address her arguments in turn. See: Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Parallel Search** Cases with similar language
Assertion #69	**Verify**	**Explore more**
The interaction between Rule 73's attorney fees provisions and the finality of judgment for purposes of appeal under Utah Rule of Appellate Procedure 4(b)(1)(F)	**Authority found** Rule 58A(f) of the Utah Rules of Civil Procedure does not alter this court's analysis. While rule 58A(f) does not reference rule 73 of the Utah Rules of Civil Procedure, it mirrors the language of rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure in stating that a “motion or claim for attorney fees” does not affect the finality of a judgment. Compare Utah R. Civ. P. 58A(f) with Utah R. App. P. 4(b)(1)(F). Rule 58A(f) expressly references rule 4 of the Rules of Appellate Procedure for determining the “time in which to file the notice of appeal.” Utah R. Civ. P. 58A(f). As noted above, rule 4(b)(1)(F) sets forth the time to file a notice of appeal only when a post-judgment motion for attorney fees has been filed. Thus, it is clear that rule 58A(f) is meant to address those situations in which a party files a motion for attorney fees after entry of a judgment that otherwise would be final for	**Key Numbers** 30k82(4) Appeal and Error > Relating to costs 134k1224 Divorce > Time of taking proceedings 134k1207 Divorce > Finality of determination **Precision Research** Appeal of Final Judgment or Order > Final Judgment **Parallel Search** Cases with similar language

	purposes of appeal. It does not affect the appealability issue in this case in which the district court's order was never final because it contemplated additional actions by the parties. See: McQuarrie v. McQuarrie, 2017 UT App 209, 407 P.3d 1096	
Assertion #70	**Verify**	**Explore more**
The historical relationship between the old Utah Rule 73 appeals framework and the current Utah Rules of Appellate Procedure, including whether any substantive differences exist between the old and new regimes	**Authority found** Plaintiff, Utah Chiropractic Association, Inc., appeals from an order of the district court dismissing plaintiff's appeal from a decision of the Insurance Commissioner. The district court ruled that since plaintiff failed to file its petition for review within one month of the Commissioner's decision, the court was without jurisdiction to entertain the appeal. The sole question before this court is, to what extent do the Utah Rules of Civil Procedure govern the timeliness of appeals from the Insurance Commissioner's decisions to the District Court of Salt Lake County? We reverse, and hold plaintiff filed its petition for review within the time allowed by the rules. Costs to plaintiff. All statutory references are to Utah Code Annotated, 1953. See: Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc.	**Key Numbers** 217k1070 Insurance > Judicial remedies and review **Parallel Search** Cases with similar language

	of U. S., 579 P.2d 1327 (Utah 1978)	
Assertion #71	**Verify**	**Explore more**
The application of Utah Code Ann. § 78A-3-102(3)(c)'s election contest exception to the attorney fees tolling rule, and whether that exception should be codified in Rule 73 itself	**Authority found** The Guardians argue that the delay was due to illness and the 4th of July holiday, and that [r]ule 61 [of the Utah Rules of Civil Procedure] coupled with the policy recognized by the Utah Supreme Court "in favor of deciding cases on their merits rather than on procedural technicalities" (Richards v. Baum, 914 P.2d 719, 723 (Utah 1996) (Stewart, J., dissenting)), weigh in favor of permitting the [motion for attorney fees]. See: Matter of Guardianship of Matthews, 2026 UT App 79, 593 P.3d 152	**Key Numbers** 102k897 Costs, Fees, and Sanctions > Objections and exceptions **Precision Research** Motion Practice > Compliance with Local Rule **Parallel Search** Cases with similar language

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Sources (23)

Cases

1. **Utah Chiropractic Ass'n, Inc. v. Equitable Life Assur. Soc. of U. S.**
   Supreme Court of Utah. • May 04, 1978 • 579 P.2d 1327

   AI document summary

   Describing the structure of old Rule 73, confirming that subsections (a) through (g) governed appeals from district courts to the Utah Supreme Court.

Supporting section 1 of 1

...The parties disagree on which part, if any, of Rule 73 shall apply to this situation. Sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court. The difficulty with these sections is that neither specifically applies to an appeal from the Insurance Commissioner, who makes no “entry” of his decision in a register of actions or judgment docket. It is helpful to look at section 31-2-10 of the Insurance Code, which states

2. **Anderson v. Anderson**
Supreme Court of Utah. • April 26, 1955 • 3 Utah 2d 277 • 282 P.2d 845

AI document summary

Holding that Rule 73(a)'s notice of appeal requirement was intended to be jurisdictional and could be noticed sua sponte.

Supporting section 1 of 1

...Failure of appellant timely to file notice of appeal was noticeable by reviewing court sua sponte. Rules of Civil Procedure, rule 73(a)....

3. **Albrecht v. Uranium Services, Inc.**
Supreme Court of Utah. • May 29, 1979 • 596 P.2d 1025 • 1979 WL 531613

AI document summary

Restating the law on the time for taking an appeal under Rule 73(a) after noting the amended rule did not appear in published rules.

Supporting section 1 of 1

...However, owing to the frequency with which this question is presented to us, and because the amended Rule 73 does not appear in Utah Rules of Civil Procedure as published in Vol. 9B, U.C.A. 1953, or the 1978 Pocket Supplement, we desire to make a restatement of the law as it applies to the time within which an appeal may be taken to this Court....

4. **Nelson v. Stoker**
Supreme Court of Utah. • August 01, 1983 • 669 P.2d 390

AI document summary

Holding that premature filing of a notice of appeal was an irregularity but not a jurisdictional defect under Rule 73(a), and discussing the difficulty of knowing when judgment was entered.

Supporting section 1 of 1

...Under Utah law, trial court has no obligation to inform parties or their counsel when execution and docketing of judgment have occurred, and thus there is difficulty in knowing when judgment is executed and docketed for purposes of properly filing notice of appeal with trial court within one month from date of entry

in register of actions of judgment appealed from. Rules Civ.Proc., Rules 73, 73(a); F.R.A.P.Rules 4(a)(2), 4 note, 28 U.S.C.A....

5. **Guardian State Bank v. Stangl**
   Supreme Court of Utah. • July 13, 1989 • 778 P.2d 1 • 1989 WL 77528

   AI document summary

   Confirming that Utah Rule 73(a) was repealed in 1985 and discussing the interaction between post-trial motions and the time for filing a notice of appeal.

   Supporting section 1 of 1

   ...I. TIMELINESS OF APPEAL. The filing of post-trial motions, pursuant to Rules 50(b), 52(b) or 59 of the Utah Rules of Civil Procedure, terminates the time for filing a notice of appeal until an order is entered granting or denying such motions. Utah R.Civ.P., 73(a) (repealed 1985). But for the filing of post-trial motions, the notice of appeal was due by July 18, 1984. The motions were voluntarily withdrawn and therefore were not ruled on. The day after the withdrawal, August 17, 1984, Guardian filed a notice of appeal and also moved for an extension

6. **U-M Investments v. Ray**
   Supreme Court of Utah. • May 30, 1985 • 701 P.2d 1061

   AI document summary

   Holding that a supersedeas bond must conform to Rule 73(d)'s requirement that it be conditioned for satisfaction of the judgment in full.

   Supporting section 1 of 1

   ...Our review of the facts makes it clear that the term "all damages" can only reasonably be construed to include the underlying judgment. The bond was drafted by respondents as a supersedeas bond. Rule 73(d) of the Utah Rules of Civil Procedure requires a supersedeas bond to be "conditioned for the satisfaction of the judgment in full together with costs, interests and damages for delay...." In the absence of any limiting terms, the bond must have been intended to conform to Rule 73(d) and to cover the judgment in full. Indeed, inasmuch as a supersedeas

7. **Ludahl v. Larson**
   Supreme Court of Utah. • October 20, 1978 • 586 P.2d 439

   AI document summary

   Holding that an appellant who failed to apply for or file a supersedeas bond under Rule 73(d) had no basis to complain about the court's failure to stay execution.

   Supporting section 1 of 1

   ...Where appellant did not procure a stay of execution of judgment denying his petition for release under writ of habeas corpus, cash bail was released to defense counsel after petition was denied appellant filed notice of appeal and

affidavit of impecuniosity but made no application for a supersedeas bond and failed to file bond, appellant had no basis to complain because of court's failure to stay execution of judgment. Rules of Civil Procedure, rule 73(d)....

8. **Swasey v. Rocky Point Ditch Co.**
Supreme Court of Utah. • May 25, 1982 • 649 P.2d 1

AI document summary

Granting leave to permit the district court to rule on an objection to the sufficiency of a supersedeas bond under Rules 73(d) and (e).

Supporting section 1 of 1

...Supreme Court would grant leave to permit district court to rule upon objection to the sufficiency of supersedeas bond, when the objection was made after the record had been transmitted to the Supreme Court. Rules Civ.Proc., Rule 73(d, e)....

9. **Marsh v. Utah Homes, Inc.**
Supreme Court of Utah. • December 13, 1965 • 17 Utah 2d 248 • 408 P.2d 906

AI document summary

Holding that payment of fees for docketing an appeal in the district court under Rule 73(h) was jurisdictional.

Supporting section 1 of 1

...Payment of fees for docketing appeal in district court is jurisdictional. Rules of Civil Procedure, rule 73(h)....

10. **Lopata v. Handler**
Circuit Court of Appeals, Tenth Circuit. • July 24, 1941 • 121 F.2d 938

AI document summary

Dismissing an appeal for failure to comply with federal Rules 73(g) and 75(a) and (d), and stating that Rule 73(g) required the record to be filed and the action docketed within 40 days from the date of the notice of appeal.

Supporting section 1 of 2

...The notice of appeal was dated March 21, 1941. The record of appeal was filed in this court May 9, 1941. Rule 73(g) of the Rules of Civil Procedure, 28 U.S.C.A.following section 723(c), requires the record on appeal to be 'filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal.'...

Supporting section 2 of 2

...Where notice of appeal was dated March 21, 1941, and record of appeal was filed in Circuit Court of Appeals on May 9, 1941, and appellants on April 28 filed in District Court a designation of record on appeal, but a copy there of was not served upon appellees, and designation did not include complete record, and

appellants did not file nor serve upon appellees, a concise statement of points on which they intended to rely on appeal, appellants did not comply with rules of civil procedure respecting appeals to Circuit Court of Appeal and record

11. **McQuarrie v. McQuarrie**
Court of Appeals of Utah. • November 16, 2017 • 407 P.3d 1096 • 2017 WL 5507863

AI document summary

Analyzing Rule 58A(f) and Rule 4(b)(1)(F) of the Utah Rules of Appellate Procedure, holding that the attorney fees tolling rule applies only to post-judgment motions for attorney fees.

12. **Adoue v. Texas Gulf Producing Company**
United States Court of Appeals Tenth Circuit. • April 13, 1961 • 289 F.2d 607

AI document summary

Dismissing an appeal from the District of Utah for failure to docket the record within the time required by federal Rule 73(g) and failure to comply with a conditional order requiring a supersedeas bond.

13. **Brennan v. U.S. Gypsum Co.**
United States Court of Appeals Tenth Circuit. • April 10, 1964 • 330 F.2d 728

AI document summary

Holding that failure to file the record on appeal within 40 days as required by federal Rule 73(g) did not deprive the court of jurisdiction but was grounds for dismissal.

Supporting section 1 of 1

...The intervenor-appellant's failure to file record on appeal in appellate court within 40 days from filing of notice of appeal as required by rule and failure to pay docket fee as required by rule did not deprive Court of Appeals of jurisdiction but constituted grounds for such action as Court of Appeals deemed appropriate. 28 U.S.C.A. SS 1917, 2107; Fed.Rules Civ.Proc. rules 73(g), 75(j), 28 U.S.C.A.; U.S.Ct.App. 10th Cir., Rule 15, subd. (6), 28 U.S.C.A....

14. **Pyramid Motor Freight Corp. v. Ispass**
Supreme Court of the United States • March 31, 1947 • 330 U.S. 695 • 67 S.Ct. 954

AI document summary

Holding that a Circuit Court of Appeals properly exercised discretion in denying a motion to dismiss an appeal for failure to docket within the time required by federal Rule 73(g), where an extension had been obtained.

Supporting section 1 of 1

...Where notice of appeal was filed in the District Court on April 2, 1945, and the appellants on July 20, 1945, secured from a single judge of Circuit Court of Appeals an order extending to September 1, 1945, time within which to serve

and file their record on appeal, and on that date transcript of record was filed, denial by Circuit Court of Appeals of motion by appellee to dismiss appeal for failure to docket appeal and to file transcript within time required by Federal Rule, was a proper exercise of discretion. Fed.Rules Civ.Proc. rule 73(a,

15. **Western Mortgage & Realty Company v. Walker**
Supreme Court of Utah. • August 20, 2026 • --- P.3d ---- • 2026 WL 2437185

AI document summary

Clarifying that current Rule 73 is a post-trial mechanism for claiming attorney fees and does not require a party to claim fees after trial when attorney fees are sought as consequential damages.

16. **Matter of Guardianship of Matthews**
Court of Appeals of Utah. • May 14, 2026 • 593 P.3d 152 • 2026 WL 1361432

AI document summary

Analyzing Rule 73(a)'s requirements and holding that the rule does not create a general requirement for a party contesting an attorney fees award to file a document specifically titled as an "objection."

Statutes

17. **Rule 73. Attorney Fees**
UT R RCP Rule 73

AI document summary

Current attorney fees rule (effective May 1, 2026) containing subsections (a) through (f) only, with no subsection (g).

18. **Rule 58A. Entry of Judgment; Abstract of Judgment**
UT R RCP Rule 58A

AI document summary

Entry of judgment rule, with subsection (f) cross-referencing a nonexistent "Rule 73(g)" in the context of the time for filing a notice of appeal when an attorney fees motion is pending.

Supporting section 1 of 1

...(f) Award of Attorney Fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4....

19. **§ 78A-3-102. Jurisdiction of Supreme Court**
UT ST § 78A-3-102

AI document summary

Providing that in election or voting contest cases, a judgment is appealable to the Utah Supreme Court even if a Rule 73 attorney fees motion is pending and unresolved.

Secondary sources

20. § 1167 Prohibitions on Extending Time
Federal Practice and Procedure (Wright & Miller) • **FPP § 1167**

AI document summary

Explaining that prior to 1968 the time for taking an appeal and filing the record on appeal was controlled solely by Rule 73, that Rule 6(b) prohibited extending the time under Rules 73(a) and (g), and that those provisions were superseded when the Federal Rules of Appellate Procedure were adopted.

Supporting section 1 of 1

...Prior to 1968, the time for taking an appeal and for filing the record on appeal was controlled solely by the provisions of Rule 73; with the adoption of the Federal Rules of Appellate Procedure in that year, the matter came under the governance of Appellate Rule 4; the references in Rule 6(b) to Rules 73(a) and (g) became superfluous and were eliminated. These time periods continue to be governed by the appellate rules....

Additional Practical Law sources

These sources are not cited in your report, but can provide context that may be helpful.

21. Commencing an Action: Utah
By Kamie F. Brown, Beth J. Ranschau, and Stephanie H. Soh, Ray Quinney & Nebeker, with Practical Law Litigation
State Q&A • **Law stated as of 27-Jan-2026** • **Utah**

Practical Law resource summary

A Q&A guide to commencing an action in Utah. This Q&A addresses the requirements for drafting and filing initiating papers, serving process, and amending the complaint. Answers to questions can be compared across a number of jurisdictions (see Commencing an Action: State Q&A Tool).

22. Statutes of Limitations: Utah
By Brandon J. Mark, Parsons Behle & Latimer, with Practical Law Litigation
State Q&A • **Law stated as of 06-Nov-2025** • **Utah**

Practical Law resource summary

A Q&A guide to the statutes of limitations in Utah for several commercial claims. Answers to questions can be compared across a number of jurisdictions (see Statutes of Limitations: State Q&A Tool).

23. Non-Compete Laws: Utah
By Susan Baird Motschiedler, Parsons Behle & Latimer, with Practical Law Labor & Employment
State Q&A • **Maintained** • **Utah**

Practical Law resource summary

A Q&A guide to non-compete agreements between employers and employees for private employers in Utah. This Q&A addresses enforcement and drafting considerations for restrictive covenants such as post-employment covenants not to compete and non-solicitation of customers and employees. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Non-Compete Laws: State Q&A Tool).

Research Steps

- ✓ Researching the historical Utah Rules of Civil Procedure to identify what Rule 73(g) provided, including examining prior versions of the Utah Rules of Civil Procedure and any official comments or amendments history that explain when and why Rule 73(g) was repealed, renumbered, or otherwise removed from the current rules.
    - o The historical Utah Rule 73 was an appeals rule (similar to federal Rule 73) covering notice of appeal, supersedeas bonds, and docketing. The current Utah Rule 73 (effective 2019) is an attorney fees rule with subsections (a)-(f) only — there is no current subsection (g). However, Rule 58A(f) cross-references 'Rule 73(g)' in the context of attorney fees in election/voting contests. The federal Rule 73(g) required docketing the record on appeal within 40 days. The old Utah Rule 73 had subsections (a)-(l) covering appeals procedure.
- ✓ Researching Utah state court decisions citing or applying former Utah Rule of Civil Procedure 73(g), focusing on identifying the rule's substantive content, procedural context, and how courts interpreted and applied it prior to its removal.
    - o Key Utah state court cases discussing the old Rule 73 appeals framework: (1) Utah Chiropractic Ass'n v. Equitable Life (1978) - explicitly states 'Sections (a) through (g) deal with appeals to the Supreme Court from the district court, while sections (h) through (m) discuss appeals to the district court from the city or justice court'; (2) Guardian State Bank v. Stangl (1989) - confirms Rule 73(a) was 'repealed 1985'; (3) Albrecht v. Uranium Servs. (1979) - discusses amended Rule 73(a) and notes it did not appear in published rules; (4) Anderson v. Anderson (1955) - discusses Rule 73(a) notice of appeal requirements; (5) Nelson v. Stoker (1983) - discusses Rule 73(a) one-month filing requirement; (6) Marsh v. Utah Homes (1965) - discusses Rule 73(h) docketing fees for appeals from city/justice court to district court. No Utah state court cases found that specifically cite Rule

73(g) by name - the rule was part of the appeals framework (sections (a)-(g) covering appeals to Supreme Court) and was repealed in 1985 when Utah adopted its Rules of Appellate Procedure.

- ✓ Researching federal court decisions from the District of Utah and the Tenth Circuit that reference or discuss Utah Rule of Civil Procedure 73(g), including any cases analyzing the rule in diversity jurisdiction matters or in comparison to the federal analog under the Federal Rules of Civil Procedure.
    - o Federal cases citing Rule 73(g) in the Utah context: (1) Adoue v. Texas Gulf Producing Co. (10th Cir. 1961) - appeal from D. Utah, cited federal Rule 73(g) for requirement to docket record on appeal within 40 days; (2) Lopata v. Handler (10th Cir. 1941) - cited federal Rule 73(g) requiring record to be 'filed with the appellate court and the action there docketed within 40 days from the date of notice of appeal'; (3) Brennan v. U.S. Gypsum Co. (10th Cir. 1964) - cited federal Rule 73(g) for 40-day requirement to file record on appeal; (4) Pyramid Motor Freight Corp. v. Ispass (U.S. 1947) - Supreme Court addressed federal Rule 73(g) docketing requirement. All federal cases cite the FEDERAL Rule 73(g), not the Utah state rule. The Utah state Rule 73(g) was the state analog covering appeals from district court to the Utah Supreme Court.
- ✓ Verify the Rule 58A(f) cross-reference to Rule 73(g) and determine whether it is a drafting error or refers to a planned but unenacted provision
    - o Rule 58A(f) states: 'Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.' Rule 73 currently only has subsections (a)-(f). Utah Code Ann. § 78A-3-102(3)(c) provides the substantive exception for election/voting contests - in those cases, a judgment is appealable to the Supreme Court even if a Rule 73 attorney fees motion is pending. The Rule 58A(f) reference to 'Rule 73(g)' appears to be a drafting artifact pointing to a provision that was contemplated but never enacted in Rule 73, likely intended to codify the election/voting contest exception from § 78A-3-102(3)(c). This is a second, distinct reason why 'Rule 73(g)' does not appear in the current Utah Rules of Civil Procedure.

Questions for further research

1. **Are you researching the historical Utah Rule 73(g) that was part of the old appeals framework (repealed 1985), or are you focused on the current cross-reference to "Rule 73(g)" in Rule 58A(f) that points to a nonexistent provision?**
2. **Is your research related to a specific case or proceeding — for example, an election contest, an attorney fees dispute, or a historical appeal from before 1985?**
3. **When you refer to "Utah Rule of Civil Procedure 73(g)," are you working from a citation in a brief, a court order, or another document that references this rule, and if so, approximately when was that document written?**
4. **Do you have any information about whether the Utah Supreme Court's advisory committee on civil rules has issued any comments or proposed amendments addressing the cross-reference in Rule 58A(f) to the nonexistent Rule 73(g)?**
5. **Is the issue you are researching related to the timing of a notice of appeal in a case where an attorney fees motion is pending, or is it related to some other procedural question?**

Tab 6

Rule 5. Service and filing of pleadings and other documents.

(a) When service is required.

(1) Documents that must be served. Unless otherwise permitted by statute, rule, or court order, every document filed with the court after the original complaint must be served by the party filing it on every party to the case. Ex parte motions may be filed without serving if permitted under Rule 7.

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

(A) If the clerk has entered a default against a party under Rule 55(a), the defaulting party must be served with: ~~a party in default must be served as ordered by the court;~~

(i) the proposed default judgment and any documents filed as part of or in support of the proposed default judgment; and

~~(B) a party in default for any reason other than for failure to file and serve a responsive pleading or otherwise appear must be served as provided in paragraph (a)(1);~~

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

(B) If a default judgment has been entered against a party under Rule 55(b), the defaulting party must be served:

~~(D) a party in default for any reason must be served~~ (i) with notice of entry of judgment as required by~~provided in~~ Rule 58A; and

~~(E) a party in default for any reason must be served~~ (ii) in the manner ~~as~~ provided in Rule 4 with any pleading~~s~~ asserting new or additional claims for relief against the party or motions to modify or augment a previously entered default judgment

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

(b) How service is made.

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

(A) an attorney has filed a Notice of Limited Appearance as provided in Rule 75 and the documents being served relate to a matter within the scope of the Notice; ~~or~~

(B) the serving party is seeking default judgment and knows that the non-moving party is represented by an attorney, even if the attorney has not formally appeared in the action; or

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

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

(3) Methods of service. A document is served under this rule by:

(A) **Electronic filing.** Except in the juvenile court, a document is served by submitting it for electronic filing, or the court submitting it to the electronic filing service provider, if the person being served has an electronic filing account.~~;~~

(B) **Email.** If the party serving or being served a document does not have an electronic filing account, emailing it to:

(i) the most recent email address the person being served has provided to the court as provided in Rule 10 or Rule 76; or

(ii) if service is to an attorney licensed in Utah, to the email address on the attorney's most recent filing or on file with the Utah State Bar; or

(iii) if service is to an attorney not licensed in Utah, to the email address on the attorney's most recent filing or on file with the attorney licensing entity in the state where the attorney is licensed.

(C) **Mail and other methods.** If the party serving or being served with a document does not have an electronic filing account or email, a document may be served under this paragraph by:

(i) mailing it to the most recent address the person being served has provided to the court as provided in Rule 10 or Rule 76~~;~~, or, if none, the person's last known address;

(ii) handing it to the person;

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

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

(v) any other method agreed to in writing by the parties.

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

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

(A) every document required to be served must be served by the party preparing it, including subsequently signed orders and judgments; and

(B) every document initially prepared by the court must be served by the court;

(C) every document signed by the court that was initially prepared and filed by a party or attorney must be served on the other parties by the party or attorney who prepared it; and

(D) service under this rule does not alter the effectiveness of the document.

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

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

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

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

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

(d) Certificate of service. No certificate of service is required when a document is served through an electronic filing account under paragraph (b)(3)(A). When a document that is required to be served is served by email, mail, or other methods of service:

(1) if the document is filed with the court, a certificate of service showing the date and method of service, including the email or mailing address used, unless safeguarded, must be filed with it or within a reasonable time after service; and

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

(e) Filing. Except as otherwise provided by statute, rule, or court order~~provided in Rule 7 and Rule 26~~, all documents after the complaint that are required to be served must be

filed with the court. Attorneys with an electronic filing account must file a document electronically. A self-represented party who is not an attorney may file a document with the court using any of the following methods:

(1) email;

(2) mail;

(3) the court's MyCase interface, where applicable; or

(4) in person.

Filing is complete upon the earliest of acceptance by the electronic filing system or by the court.

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

(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah Code section ~~46-1-16~~ 46-1-16;

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

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

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

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

Effective ~~November 1, 2024~~

Advisory Committee Notes

Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the document on parties who have an e-filing account. (Attorneys representing parties in the

district court are required to have an account and electronically file documents. Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this provision documents electronically filed in juvenile court.

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

Note adopted 2015

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on "Continue Reading." To submit a comment, scroll down to the "Leave a Reply" section, and type your comment in the "Comment" field. Type your name and email address in the designated fields and click "Post Comment."

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

Posted: July 23, 2026

Utah Courts

Rules of Civil Procedure – Comment Period Closed September 8, 2026

URCP005. Service and filing of pleadings and other documents. AMEND. The amendments require a party seeking default judgment to serve notice on a non-moving party's attorney if known, even if no formal appearance has been entered. Additionally, they expand service requirements on defaulting parties to mandate serving the proposed default judgment along with all accompanying and supporting documents.

URCP029.Stipulations regarding disclosure and discovery procedure. AMEND. This amendment corrects a typographical error by updating a cross-reference from Rule 26(b)(2) to Rule 26(b)(3) regarding proportionality standards.

URCP030. Depositions upon oral questions. AMEND. The amendments to paragraph (f) remove outmoded requirements for deposition officers to physically seal and label transcripts with specific markings, streamlining delivery requirements to reflect modern practice and eliminate unnecessary costs.

URCP037. Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence. AMEND.

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To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- -Alternate Dispute Resolution
- -Code of Judicial Administration
- -Code of Judicial Conduct
- -Fourth District Court Local Rules
- -Licensed Paralegal Practitioners Rules of Professional Conduct
- -Rules Governing Licensed Paralegal Practitioner
- -Rules Governing the State Bar

The amendments align paragraph (a)(2) with Rule 7(q) by adding a 1,500-word limit option for statements of discovery issues, and update a cross-reference in paragraph (a)(7) from Rule 26(b)(2) to Rule 26(b)(3) regarding proportionality standards.

URCP064. Writs in general. AMEND. The amendments to paragraph (d)(2) align the rule with S.B. 156 by explicitly permitting writs to direct an officer to establish a periodic payment schedule with a defendant in lieu of seizing and selling property, or to communicate with the defendant regarding payment of the writ.

URCP064E. Writ of execution. AMEND. The amendment to paragraph (a) aligns the rule with S.B. 156 by clarifying that a writ of execution is available to enforce a judgment or order for the payment of money whether the payment is in an amount sufficient to satisfy the final judgment or subject to a periodic payment schedule.

URCP074. Withdrawal of counsel. AMEND. The amendment to paragraph (e) removes the requirement for former counsel's signature on a notice of substitution of counsel, ensuring that obtaining former counsel's signature or permission is not a prerequisite for a client to secure new representation.

URCP0105. Shortening 30 day waiting period in divorce actions. AMEND. The amendments replace references to a "motion for a hearing" with a "request to enter a decree of divorce" to reflect the modern practice of submitting stipulated proposed findings rather than holding actual hearings, alongside minor plain-language and stylistic updates.

URCP110. Judicial interview of a minor child. NEW. This new rule applies to district court proceedings in which the court is permitted to interview a minor child, and explicitly excludes juvenile court matters, child testimony, and non-judicial interviews. Adapted generally from the Uniform Judicial Interview of Children Act (UJICA), the rule covers interview criteria, required judicial training, recording requirements, guardian ad litem attendance, and post-interview access to records.

This entry was posted in -Rules of Civil Procedure, URCP005, URCP029, URCP030, URCP037, URCP064, URCP064E,

- -Rules of Appellate Procedure
- -Rules of Civil Procedure
- -Rules of Criminal Procedure
- -Rules of Evidence
- -Rules of Juvenile Procedure
- -Rules of Professional Conduct
- -Rules of Professional Practice
- -Rules of Small Claims Procedure
- ADR0104
- ADR101
- ADR103
- Appendix A
- Appendix B
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- CJA 1-101
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- CJA01-0201
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URCP074, URCP105, URCP110.

« Rules of Juvenile Procedure – Comment Period Closed September 8, 2026

Rules of Appellate Procedure – Comment Period Closed September 8, 2026 »

UTAH COURTS

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7 thoughts on "Rules of Civil Procedure – Comment Period Closed September 8, 2026"

Leslie Slaugh
July 23, 2026 at 11:58 am

Proposed Rule 5 modifies the requirement to serve a notice of default judgment but preserves an uncertainty that has existed regarding that service: if an attorney appears in an action and the court later enters a judgment, must the Rule 58A notice of entry of judgment be served only on the attorney as required by Rule 5(b)(1), or should service also be made on the party?

I recommend that Rule 5(b)(1) be modified to require that any Rule 58A notice of judgment be served on both the attorney and the party. Too often, especially with default judgments, the judgment is entered as a result of a mistake or neglect by the attorney. The client should be notified directly of any judgment so that the attorney cannot hide the mistake.

Liz Kazandzhy
July 23, 2026 at 9:33 pm

I believe Rule 110 is an important addition to the Utah Rules of Civil Procedure. It gives children a more direct voice with judicial decision-makers, rather than having that voice potentially diluted or distorted by the many adults involved in the process, including parents, attorneys, therapists, and

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guardians ad litem. Meeting directly with a child—when warranted—can also remind judges and commissioners of the human realities of the proceedings, putting a name and a face to the case before them.

That said, I have serious reservations about paragraph (c)(5) and its implications in cases involving abuse.

CONFIDENTIALITY CAN BE VETOED BY AN ABUSIVE PARENT

As currently written, paragraph (c)(5) provides that:

– the default arrangement is that both parents may obtain access to the recording of the child's interview; and
– to opt out of that access, both parents must stipulate to such.

This effectively gives an abusive parent the ability to veto the confidentiality of the child's disclosures. And considering that the child will be told "whether the interview record will be provided to the parties" under paragraph (c)(6)(E), if the child is told an abusive parent may later access the recording, the child will be less likely to speak freely about their experiences. For an abused child, the interview may feel much the same as if their abuser were standing in the corner of the room. (For purposes of this comment, I use the term "abuse" broadly to include related factors identified in Utah Code § 81-9-204(4), such as coercive control and psychological maltreatment.)

A better approach would be one in which the default arrangement is that *neither* parent may obtain access to the recording unless they *both* stipulate to that access. This would allow a protective parent to protect the confidentiality of the interview rather than allowing an abusive parent to compel access to it.

CONFIDENTIALITY AND DUE PROCESS CAN COEXIST

This approach remains consistent with paragraph (d)(2), which requires the disclosure of contested factual allegations and preserves the parties' opportunity to respond—an appropriate and necessary safeguard.

In fact, paragraph (d)(2) already points toward how to strike the right balance. The interview itself could remain confidential by default, while children are clearly informed that certain categories of information may nevertheless be disclosed. Therapists routinely explain confidentiality in a similar way—for example, by telling a child that most of what they say will stay between them, but there are a few situations where it may need to be shared to help keep the child safe. Children understand those boundaries, and that understanding often makes honest disclosure possible because they know exactly what will—and will not—remain confidential.

A similar approach here would better protect abused children while preserving the due process rights of parents to respond to factual allegations that could affect the outcome of the case.

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Eric Stephenson
July 29, 2026 at 2:54 pm

Comments on Proposed Amendments to Rules 64 and 64E

The amendments proposed would codify the abusive practice of constables misusing writs of execution to pressure debtors for installment payments instead of performing the court directed and supervised seizure and sale process. As a consumer protection litigation attorney with more than 23 years of experience, I therefore oppose the proposed changes to Rules 64 and 64E.

Rules 64 and 64E exist to ensure that judgments are enforced through an official, impartial judicial process subject to court supervision, not through a private collection arrangement controlled by the person who benefits from obtaining payment. Under that process, the debtor receives notice of exemptions, an opportunity to object and be heard, and the constable must report an inventory of any seizures and proceeds of property sales to the court. The proposed amendments subvert those safeguards and convert the execution process into ongoing debt collection administered by constables without judicial oversight. This Court should reject those amendments or at least clarify their scope as suggested below.

This concern is not hypothetical. Utah's execution process has already been the subject of repeated litigation challenging the way writs of execution have been misused by constables to obtain installment payments from judgment debtors. In that litigation, constables testified under oath that their payment collection process exists to avoid executing writs of execution. To that end, those constables sent letters to debtors threatening to seize and sell their property at a specified date, time, and location with no intention of ever carrying out those sales. Rather than taking action stop these abuses of the judicial process, the Legislature has now authorized constables to administer periodic payment arrangements. The proposed amendments to Rules 64 and 64E would now incorporate that practice into the Rules of Civil Procedure without addressing the abuse that gave rise to the litigation.

The Rules of Civil Procedure govern how a writ is obtained, served, and returned. They do not define the scope of a constable's official duties and they cannot expand or diminish the protections available to debtors under federal or state consumer protection laws. That distinction should be made clear in the Rules themselves. Without such language, the amendments invite the argument that any collection activity undertaken by a constable is authorized by this Court and therefore beyond the reach of the FDCPA and Utah's consumer protection statutes. Rejecting the proposed changes or incorporating a simple savings clause would prevent that misunderstanding and would clarify that allowing constables to

collect debt does not authorize them to violate state or federal consumer protection statutes. I propose language along the following lines:

"Nothing in these rules may be construed to make the acceptance or administration of periodic payments part of the judicial execution process or an official duty of a constable, or as affecting the applicability of any federal or state law governing debt collection activity."

The power of the State exists to enforce lawful judgments, not to facilitate private collection arrangements. A writ of execution is a command from the court to seize and sell a debtor's property under strict judicial procedures and oversight. The court's orders are not, and should not be reduced to, a discretionary process the constable can wholly disregard, which is precisely what some constables have testified their payment collection process is designed to accomplish. When the execution process is used to pressure payment rather than enforce the court's order, judicial oversight and neutrality are replaced by a private collection arrangement where the constable's financial interest is aligned with obtaining payment rather than simply carrying out the court's command.

Courts entrust constables with significant authority because they are expected to exercise that authority as neutral officers of the court, not as interested participants who leverage the credibility of their office for a financial stake in the outcome. When a constable's compensation depends upon administering long-term payment arrangements, the constable acquires a financial interest that differs materially from the traditional role of neutrally executing a writ and returning it to the court. The authority of public office should not be used as a means of generating private income. Indeed, while constables are now allowed to collect periodic payments, Utah Code § 76-8-110 paradoxically prohibits police officers from collecting debts for compensation or from holding a financial interest in a debt collection agency.

The Court should reject the proposed amendments. They would transform the execution process from a neutral judicial procedure into an ongoing debt collection system administered by constables for their own financial benefit, while removing the judicial oversight and protections the Rules were designed to provide. If the Court nevertheless adopts any portion of the proposal, the Rules should expressly state that making payment arrangements does not replace the judicial procedures governing execution of a writ, expand the official duties of a constable, or create any exception to applicable federal or state laws governing debt collection.

Chad Rasmussen
July 29, 2026 at 3:15 pm

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The addition of a requirement in Rule 5(a)(2)(B)(ii) to serve under Rule 4 is unnecessary and unduly burdensome on the plaintiff/judgment creditor because it requires more work/effort than even to renew a judgment under Rule 58C. If a motion under Rule 58C is not required to be served under Rule 4, why would a motion to modify or augment the judgment be required to be served under Rule 4. Once a party has been summoned to appear, it should not be incumbent upon the plaintiff/judgment creditor to effectively summon the defendant/judgment debtor anew, and if a defendant/judgment debtor fails to keep the court and the plaintiff/judgment creditor apprised of his/her contact information, it should not fall upon the plaintiff/judgment creditor to effectively do that job. Furthermore, it will only increase costs of litigation and, ultimately, increase the amounts the defendant/judgment debtor will have to pay. This does not seem like a prudent or reasonable requirement to impose upon plaintiffs/judgment creditors; otherwise the same logic can be applied to virtually anything that is filed with the court, including motions for summary judgment, or even simply motions for an award of attorney's fees.

Thus, I suggest that the language to be added regarding motions to modify or augment default judgments not be adopted.

Chip Shaner
July 30, 2026 at 12:23 pm

The proposed Rule 5 changes require that in the case of an application for a default judgment that an unrepresented party be served with the default judgment papers via first- class mail and does not give an avenue for service upon these individuals via email. As a high-volume creditor's rights filer, these comments are offered from that perspective.

Forcing creditors to first-class mail these default judgment papers imposes an additional cost without an identified corresponding benefit. Most creditors would welcome additional contact from their defendants, but at this stage the defendants have largely already decided to not actively participate in the process. While the cost of one mailing may seem insignificant, multiplied across hundreds or thousands over the course of the year adds up.

Rule amendments should only impose additional requirements where there is a demonstrated corresponding benefit to the litigants or the process as a whole. Reaching out to known attorneys as proposed in this rule update appears to fulfill both prongs as when the defendant has an attorney the defendant is engaged in the process and receives a direct benefit from the representation. By contrast, there does not appear to be a comparable benefit to first-class mailing default judgment

- LPP1.09
- LPP15-0701
- LPP15-0702
- LPP15-0703
- LPP15-0704
- LPP15-0705
- LPP15-0706
- LPP15-0707
- LPP15-0708
- LPP15-0709
- LPP15-0710
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- LPP15-0718
- LPP15-0719
- LPP15-0720
- LPP15.01001
- LPP15.01101
- LPP15.01102
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- LPP15.01119
- LPP15.01120
- LPP15.0301
- LPP15.0501
- LPP15.0502
- LPP15.0503
- LPP15.0505
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- LPP15.0508
- LPP15.0509
- LPP15.0510
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- LPP15.0515
- LPP15.0516
- LPP15.0517

papers to parties who have not participated in the litigation process despite prior notice.

Furthermore, in today's world email is as likely to reach and be read by a defendant as first-class mail. Creditors generally have the defendant's email address either as a result of a prior business relationship or as otherwise used by the defendant to communicate with the creditor regarding the defendant's account. Email is routine and, in many instances, may be more likely to be reviewed promptly than traditional mail.

It is my suggestion that in debt collection cases that there be an option for the serving party to email the default judgment papers to the last known email address on file with the creditor instead of having to send the default judgment papers via first-class mail. Additionally, I would suggest that the portion of the rule dealing with serving attorney's licensed out of state be modified to allow for service to either the attorney's preferred email address or the email address on file with the attorney licensing entity in the state where the attorney is licensed.

Below is a suggested edit.

(B) Email. If the party serving or being served a document does not have an
electronic filing account:
i) In the case of a debt collection case and the email address has been provided as part of the transaction related to the matter, emailing it to the most recent email address on file with the creditor, the most recent email address provided to the court as provided in Rule 10 or Rule 76 or;
ii) In all other cases where the person being served has provided to the court an email address as provided in Rule 10 or Rule 76 email it to that address; or
iii) if service is to an attorney licensed in Utah, to the email address on the attorney's most recent filing or on file with the Utah State Bar; or
iv) if service is to an attorney not licensed in Utah, to the email address on the attorney's most recent filing, the preferred email address of the attorney provided to the serving party, or the email address on file with the attorney licensing entity in the state where the attorney is licensed.

Rachel Sykes
August 13, 2026 at 1:10 pm

I write in support of the proposed amendments to Rule 37. A word limit instead of a page limit is more practical. A word limit would discourage attorneys from tinkering with margins, font size, etc. in their SODIs in an attempt to force it into 4 pages.

- LPP15.0518
- LPP15.0519
- LPP15.0520
- LPP15.0522
- LPP15.0523
- LPP15.0525
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- LPP15.0601
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- LPP15.0901
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- LPP15.0908
- LPP15.0909
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- LPP15.0911
- LPP15.0912
- LPP15.0913
- LPP15.0914
- LPP15.0915
- LPP15.0916
- LPP2.01
- LPP2.03
- LPP3.01
- LPP3.03
- LPP3.04
- LPP3.05
- LPP4.01
- LPP4.02
- LPP4.03
- LPP5.01
- LPP5.02
- LPP5.03
- LPP5.04
- LPP5.05
- LPP5.06
- LPP6.01
- LPP6.03
- LPP6.04
- LPP6.05

Eric K. Johnson
August 15, 2026 at 2:16 pm

Summary of my comments on propose URCP 110:

1. Proposed paragraph (b)(2) applies to judicial interviews substantially the same restrictive threshold the Legislature imposed on compelled child testimony.
2. Concerns about litigation abuse and judicial workload justify reasonable controls, not a presumption against interviews.
3. Paragraph (b)(3) relies too heavily on speculation before the interview has occurred.
4. Citing "Best interest" does not substitute for an actual reason.
5. Possible coaching is not ordinarily a reason to avoid direct judicial inquiry.
6. Any specialized judicial training should be sound, practical, and publicly reviewable.
7. Parties and GALs may propose questions. The judicial officer should conduct the interview without an unnecessary audience.
8. Recording the interview is essential.
9. Rule 110 should not purchase protection from possible retaliation at the price of reliable factfinding.
10. Paragraph (c)(5): one party should not control another party's access or response rights.
11. Paragraph (c)(6): tell the child the truth about confidentiality and retaliation.
12. Paragraph (d)(2): replace "potentially dispositive" with materiality and provide meaningful access to the record.
13. Protect the interview record from misuse, not from legitimate adjudicative access.

I support adoption of a rule that facilitates, rather than discourages, judges and commissioners conducting appropriate interviews of children in child custody and parent-time disputes.

Proposed Rule 110 gets several important things right. It distinguishes a judicial interview from child testimony and from an interview conducted by a nonjudicial person. It permits parties and an attorney guardian ad litem to propose questions while leaving the actual questioning to the judge or commissioner. It requires the interview to be recorded. It requires the judicial officer to explain the interview process directly to the child in age-appropriate terms. And it recognizes that information obtained in the interview can create rights of disclosure and response.

Those provisions are worthwhile.

But the proposed rule's central premise is backwards.

Paragraphs (b)(2) and (b)(3) treat a judicial interview as something approaching an extraordinary last resort. Before talking directly with the child, the court would have to determine that "extenuating circumstances necessitate the interview," that "there is no other reasonable method to obtain

- LPP7.01
- LPP7.02
- LPP7.03
- LPP7.04
- LPP7.05
- LPP8.01
- LPP8.02
- LPP8.03
- LPP8.04
- LPP8.05
- LSI11.0701
- LSI11.0702
- LSI11.0703
- LSI11.0704
- LSI11.0705
- LSI11.0706
- Office of Professional Conduct
- Petition to Increase Bar Admission Fees
- Petition to Increase Licensing Fees.
- Regulatory Reform
- RGLPP15-0401
- RGLPP15-0402
- RGLPP15-0403
- RGLPP15-0404
- RGLPP15-0405
- RGLPP15-0406
- RGLPP15-0407
- RGLPP15-0408
- RGLPP15-0409
- RGLPP15-0410
- RGLPP15-0411
- RGLPP15-0412
- RGLPP15-0413
- RGLPP15-0414
- RGLPP15-0415
- RGLPP15-0416
- RGLPP15-0417
- RGLPP15-0510
- RGLPP15-0701
- RGLPP15-0703
- RGLPP15-0705
- RGLPP15-0707
- RGLPP15-0714
- RGLPP15-0908
- RPC Preamble
- RPC Terminology
- RPC01.00
- RPC01.01
- RPC01.02
- RPC01.03
- RPC01.04
- RPC01.05
- RPC01.06
- RPC01.07

information from the child," and that the interview itself is in the child's best interest. The rule then adds a series of predictive considerations that make it easier still to decline the interview before the court knows what the interview would reveal.

That is the wrong presumption.

A child may be among the most percipient witnesses to the family circumstances bearing on custody and parent-time and is the only firsthand source of the child's own wishes and concerns. When applicable law permits the court to inquire directly and the requested interview concerns a material issue, the starting point should ordinarily be to hear from the child unless a concrete, evidence-supported reason establishes why the court should not.

That does not mean every request requires an unlimited interview. Courts should reject immaterial requests, prevent unnecessary repetitive interviews, control their scope and duration, and protect a child from a substantial and particularized risk of serious harm that cannot reasonably be mitigated.

Those are legitimate limitations. A general presumption against firsthand information is not.

1. Proposed paragraph (b)(2) applies to judicial interviews substantially the same restrictive threshold the Legislature imposed on compelled child testimony.

This is my principal objection. Utah Code § 81-9-204(5)(a) provides that a minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances necessitate hearing the child's testimony and there is no other reasonable method of presenting it.

The Legislature then addresses something different. Section 81-9-204(5)(b) separately authorizes the court to inquire into and consider the child's desires regarding future custody and parent-time schedules. Section 81-9-204(5)(c) separately provides for the court to conduct such an interview in camera. Its reference to whether an interview is the "only method" addresses when prior consent of the parties is unnecessary; it does not impose "only method" as a universal prerequisite to conducting every judicial interview.

Proposed Rule 110 itself recognizes the distinction. Paragraph (a)(2) expressly provides that the rule does not apply to "testimony by a child."

Yet paragraph (b)(2) then provides that a judicial interview may occur only if, among other things, "extenuating circumstances necessitate the interview" and "there is no other reasonable method to obtain information from the child"—substantially the same restrictive concepts the Legislature expressly applied to compelling a child to testify.

Those are different procedures. The statute treats them differently. The rule should too.

- RPC01.08
- RPC01.09
- RPC01.10
- RPC01.11
- RPC01.12
- RPC01.13
- RPC01.14
- RPC01.15
- RPC01.16
- RPC01.17
- RPC01.18
- RPC02.01
- RPC02.02
- RPC02.03
- RPC02.04
- RPC03.01
- RPC03.02
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- RPC05.04A
- RPC05.04B
- RPC05.05
- RPC05.06
- RPC05.07
- RPC05.08
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- RPC06.02
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- RPC07.01
- RPC07.02
- RPC07.02A
- RPC07.02B
- RPC07.03
- RPC07.04
- RPC07.05
- RPC08.01
- RPC08.02
- RPC08.03
- RPC08.04
- RPC08.05
- RPP014.515
- RPP11-0101

More fundamentally, why should "extenuating circumstances" be necessary before a judge or commissioner may speak directly with a child about matters the court is legally permitted to inquire into?

Why should second-hand communication be preferred over first-hand communication?

Having a GAL, evaluator, therapist, parent, or other intermediary speak with the child and later report what the child said is not equivalent to hearing directly from the child. It filters the information. The precise question is unknown. The precise answer is unknown. Context is lost. Natural follow-up questions cannot be asked by the factfinder when they occur. The intermediary's understanding, memory, characterization, and opinions necessarily stand between the original source and the court.

A third-party account can sometimes be useful, but is neither needed nor warranted. And it is not the original source. The better presumption runs in the opposite direction:

When a proper request for a judicial interview concerns a material matter the law permits the court to inquire into, the interview should presumptively occur unless a concrete, compelling, evidence-supported reason establishes that it should not.

I recommend replacing paragraph (b)(2) with language substantially along these lines:

(2) Upon a request under paragraph (b)(1) that identifies with reasonable particularity the subject matter of the requested interview, the court shall conduct the judicial interview unless the court finds, based upon specific facts and not merely generalized concerns or speculation, that:

(A) the proposed subject of the interview is outside the scope of matters the court is legally permitted to inquire into or is immaterial to a disputed custody or parent-time issue;

(B) the child plainly lacks the ability to communicate meaningfully concerning the subject of the proposed interview;

(C) conducting the interview would create a substantial and particularized risk of serious harm to the child that cannot reasonably be mitigated by the manner in which the interview is conducted; or

(D) the requested interview would be unreasonably cumulative because the court has recently interviewed the child concerning substantially the same matters and no material change warrants another interview.

The court may reasonably limit the scope and duration of the interview. The court shall state on the record the specific basis for denying a requested judicial interview.

- RPP11-0107
- RPP11-0581
- RPP11-0582
- RPP11-0583
- RPP11-0584
- RPP11-0585
- RPP11-0586
- Rules of Business and Chancery Court
- SCRP 1-501
- SCRP 1-502
- SCRP 1-503
- SCRP 1-510
- SCRP 1-511
- SCRP 1-522
- SCRP 1-532
- SCRP 1-535
- SCRP 1-542
- SCRP 1-552
- SCRP 1-553
- SCRP 1-560
- SCRP 1-561
- SCRP 1-563
- SCRP 1-570
- SCRP 1-580
- SCRP 1-581
- SCRP 1-590
- SCRP 1-591
- SCRP01-530
- SRCP 1-567
- Standing Order 15
- StandingOrder08
- Uncategorized
- URAP 21A
- URAP001
- URAP002
- URAP003
- URAP004
- URAP005
- URAP008
- URAP008A
- URAP009
- URAP010
- URAP011
- URAP012
- URAP013
- URAP014
- URAP015
- URAP016
- URAP017
- URAP019
- URAP019
- URAP020
- URAP021
- URAP021
- URAP022
- URAP023

The precise wording can be refined. The important principles are not complicated: relevance, lawful scope, meaningful ability to communicate, protection from proved and serious non-mitigable harm, and protection against unnecessary repetition.

What should disappear is the presumption that direct judicial inquiry requires "extenuating circumstances."

2. Concerns about litigation abuse and judicial workload justify reasonable controls, not a presumption against interviews.

One predictable objection to a presumption favoring appropriate interviews is that high-conflict litigants will demand them constantly, either to involve children unnecessarily in litigation or simply to burden the court.

That possibility should be addressed directly.

It does not justify proposed paragraph (b)(2).

Every procedural device is capable of misuse. The answer is to prohibit and control misuse, not to make legitimate use extraordinarily difficult.

The proposed language above does that. A party requesting an interview should identify its subject with reasonable particularity. The subject must be material and within the lawful scope of judicial inquiry. Repetitive interviews may be denied as unreasonably cumulative. The court may limit the interview's duration and subject matter. And when misuse occurs through a filing, existing Rule 11 already prohibits papers presented for an improper purpose such as harassment, unnecessary delay, or needless increase in litigation cost.

Those are sensible anti-abuse mechanisms. An "extenuating circumstances" barrier is not. It protects against abuse by impairing proper use.

Judicial workload is likewise a legitimate administrative concern, but it does not justify preferring inferior information.

A presumption favoring an appropriate interview does not mean every interview must consume hours. A judge can identify the material subjects to be discussed and conduct a focused interview of reasonable duration.

And direct, recorded communication has an efficiency advantage of its own: it creates one identifiable source for what the child actually told the court instead of inviting collateral disputes over what different parents, GALs, evaluators, therapists, or other intermediaries claim the child said.

I do not contend that every judicial interview will save time. Some will not. The narrower principle, however, is enough: Judicial economy should be achieved by controlling relevance, scope, duration, and unnecessary repetition—not by creating a substantive presumption against obtaining material information from the original source.

- URAP023B
- URAP023C
- URAP023C
- URAP024
- URAP024A
- URAP025
- URAP025A
- URAP026
- URAP027
- URAP028A
- URAP029
- URAP029
- URAP030
- URAP031
- URAP033
- URAP034
- URAP035
- URAP036
- URAP037
- URAP038
- URAP038A
- URAP038B
- URAP039
- URAP040
- URAP040.A
- URAP041
- URAP042
- URAP043
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- URAP048
- URAP049
- URAP050
- URAP051
- URAP052
- URAP053
- URAP054
- URAP055
- URAP055A
- URAP056
- URAP057
- URAP058
- URAP059
- URAP060
- URAP55A
- URBCP001
- URBCP008
- URBCP010
- URBCP013
- URBCP014
- URBCP016
- URBCP018
- URBCP019
- URBCP020
- URBCP022

3. Paragraph (b)(3) relies too heavily on speculation before the interview has occurred.

Proposed paragraph (b)(3) asks the court to predict whether the interview is "likely" to assist the court, its "likely benefit" to the child, the "potential harm" to the child, and whether some other process can elicit the child's views.

Some of these considerations may matter in a particular case. The problem is making speculative predictions grounds for declining the interview before the judicial officer knows what direct communication with the child will reveal.

– Likelihood the interview will assist the court. How can the court reliably know what it will learn without conducting the interview?

An interview that ultimately proves unhelpful was not therefore unreasonable to conduct. Factfinders regularly receive information that ultimately receives little or no weight. We ordinarily do not insist upon proof of the information's ultimate value before the factfinder may receive it.

– Age, maturity, and ability to communicate. There will be obvious cases in which a child plainly lacks the ability to communicate meaningfully. The rule should accommodate them. But maturity and communicative ability are often best assessed by communicating with the child. They should not become reasons for refusing an interview based merely on assumptions about what the court expects to encounter.

– "Likely benefit" to the child. A judicial interview is a fact-gathering procedure. Its legitimacy should not depend upon proving that the act of interviewing itself confers an independent benefit on the child. The relevant benefit is that the court deciding the child's custody and parent-time does so with better information.

– Potential harm. Actual, particularized risks deserve serious consideration. Generalized possibilities do not.
Virtually any involvement in litigation may cause anxiety, embarrassment, discomfort, or displeasure. A standard based simply on "potential harm," without requiring evidence concerning probability, seriousness, and reasonable mitigation, permits speculation to substitute for analysis.

If competent information establishes that interviewing a particular child would create a substantial and particularized risk of serious harm that cannot reasonably be mitigated, that is a legitimate basis to decline or modify the interview.

The rule should require that showing rather than presume it.

– Other processes for obtaining the child's views. For a child capable of communicating directly with the factfinder, no intermediary supplies the same thing as direct communication. Another process may sometimes be useful or necessary. Its availability should not itself establish that direct communication is dispensable.

- URBCP024
- URBCP026
- URBCP038
- URBCP042
- URBCP063
- URBCP065A
- URBCP065B
- URBCP077
- URBCP085
- URBCP086
- URCP001
- URCP004
- URCP005
- URCP006
- URCP007
- URCP007A
- URCP007B
- URCP008
- URCP009
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- URCP017
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- URCP023A
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- URCP026.02
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- URCP055

– Whether the child wants to communicate. The child's willingness or reluctance to communicate deserves consideration, particularly in deciding how an interview should be conducted. It should not automatically determine whether the court receives otherwise material information. A reluctant child may have important reasons for the reluctance. Indeed, fear of upsetting or angering a parent may itself be information the court should know.

– Recognition or enforcement elsewhere. Paragraph (b)(3)(F), concerning whether the interview is likely to facilitate recognition or enforcement in another state or foreign court, appears remote from the central question of whether the judicial officer should hear directly from the child. Unless some specific legal requirement makes this factor necessary, I recommend deleting it.

4. "Best interest" should not substitute for an actual reason.

I recommend deleting proposed paragraph (b)(2)(C)'s requirement that conducting the interview itself be found to be "in the child's best interest."

The best-interest standard properly governs the ultimate custody and parent-time determination. But saying, "I do not find interviewing the child to be in the child's best interest," does not explain why the interview should not occur.

If the problem is serious psychological harm, identify the harm and the evidence establishing it.

If the child cannot communicate meaningfully, identify why.

If the proposed subject is immaterial or outside the court's lawful inquiry, identify it.

If another interview would be needlessly repetitive, identify the prior interview and explain why nothing material has changed.

Those are reasons that can be evaluated and reviewed.

"In the child's best interest," standing alone, is merely a conclusion. Rule 110 should require the reasoning.

5. Possible coaching is not ordinarily a reason to avoid direct judicial inquiry.

Another concern is that a child may have been coached. That concern is real too. But avoiding direct communication with the child does not solve it.

No judicial officer can infallibly determine from demeanor whether a child has been coached, and the rule should not rest on any assumption that judges possess that ability. But direct inquiry gives the factfinder something an intermediary's summary does not: the opportunity to ask follow-up questions.

If a child uses unusual or adult terminology, the judicial officer can ask what the child understands the words to mean. If the child states a conclusion, the judicial officer can ask what

- URCP056
- URCP058A
- URCP058B
- URCP058C
- URCP059
- URCP060
- URCP062
- URCP063
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- URCP064
- URCP064A
- URCP064B
- URCP064C
- URCP064D
- URCP064E
- URCP064F
- URCP065C
- URCP066
- URCP068
- URCP069
- URCP069A
- URCP069B
- URCP069C
- URCP071
- URCP073
- URCP074
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- URCP076
- URCP081
- URCP083
- URCP084
- URCP086
- URCP087
- URCP100
- URCP100A
- URCP101
- URCP102
- URCP103
- URCP104
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- URCP106
- URCP107
- URCP108
- URCP109
- URCP110
- URCrP002
- URCrP004
- URCrP004A
- URCrP004B
- URCrP005
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- URCrP007
- URCrP007A
- URCrP007B
- URCrP007C
- URCrP008
- URCrP009

happened that led the child to it. If the child describes something the child did not personally observe, the judicial officer can ask how the child learned it. If the child's preference rests on particular experiences or concerns, the judicial officer can explore those reasons within the lawful scope of the interview.

The point is not that direct questioning magically detects coaching. The point is that a concern about coaching generally supports careful direct inquiry, not deliberate reliance on another adult's interpretation of the child's statements.

6. Any specialized judicial training should be sound, practical, and publicly reviewable.

Proposed paragraph (b)(4) would require a judge or commissioner conducting an interview first to complete whatever child-interview training the Judicial Council requires.

I question whether specialized training should operate as a prerequisite to a judicial officer conducting an interview at all. Judges and commissioners routinely question people of differing ages, abilities, educational levels, communication styles, and emotional states.

If specialized child-interview training is nevertheless required, it should be grounded in reliable evidence, focused on neutral and non-leading questioning rather than promotion of a disputed psychological theory, reasonably limited in time and cost, and readily available to every judicial officer who may need it.

The training materials should also be publicly available for review. If judicial officers are being taught a particular methodology for questioning children whose statements may materially influence custody and parent-time decisions, the public and the bar should be able to know what that methodology is.

Training should improve judicial interviews. It should not become another practical impediment to conducting them.

7. Parties and GALs may propose questions. The judicial officer should conduct the interview without an unnecessary audience.

I support proposed paragraph (c)(1), which permits a party and an attorney guardian ad litem to propose questions but leaves the court to determine what questions actually will be asked.

That is an appropriate role for a GAL.

I strongly support paragraph (c)(2)'s requirement that the interview be recorded.

I oppose paragraph (c)(3)'s provision that the attorney guardian ad litem will be permitted to attend the interview in person. Proposed paragraph (c)(4), by contrast, generally excludes the parties and their attorneys. Why should the GAL be treated differently? The GAL is not needed to conduct the interview.

- URCrP009A
- URCrP010
- URCrP011
- URCrP012
- URCrP012.5
- URCrP013
- URCrP014
- URCrP015.5
- URCrP015A
- URCrP016
- URCrP017
- URCrP017.5
- URCrP018
- URCrP021
- URCrP021A
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- URCrP026
- URCrP027
- URCrP027A
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The GAL is not the factfinder. The GAL can propose questions beforehand. And the interview is recorded.

Physical attendance therefore adds an adult whose presence is unnecessary to the basic function being performed and whose presence can affect what the child says or does not say.

A child may know what result the GAL favors. The child may seek the GAL's approval or fear the GAL's disapproval. The child may have previously told the GAL something different and hesitate to clarify, qualify, or change it while that same lawyer listens.

None of this requires bad conduct by the GAL. The influence need not be intentional to exist.

The cleanest procedure is the simplest one.

I recommend replacing paragraphs (c)(3) and (c)(4) with:

Except upon a finding of good cause based on particularized circumstances, no person other than the child and the judge or commissioner conducting the interview may attend, observe, or listen to the judicial interview in real time.

When siblings are involved, the rule should not prohibit the judicial officer from interviewing them separately, together, or both when reasonably useful.

But the default should be the judicial officer and the child.

8. Recording the interview is essential.

Paragraph (c)(2) provides: "The court will record the interview."

That requirement should remain without qualification.

Without a record, there is no reliable way to determine precisely what questions were asked, what answers were given, what the child did or did not say, whether important qualifications or follow-up questions occurred, whether the interview was competently conducted, or whether the court later characterized the interview accurately.

The record is also essential when meaningful review becomes necessary.

If the value of a judicial interview is direct communication between the original source and the factfinder, preserving that direct communication accurately should be nonnegotiable.

9. Rule 110 should not purchase protection from possible retaliation at the price of reliable factfinding.

A serious concern remains: a child who knows that a parent may eventually learn what the child tells the court may be less candid. In some cases, the child may fear anger, pressure, punishment, manipulation, or retaliation. That is a real risk. But secrecy creates serious risks too.

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A child may know things about each parent's home, behavior, relationships, interactions, parenting, and the child's own experiences that nobody else knows firsthand. The child is also the only firsthand source of the child's own genuine wishes and concerns.

Thus, the choice is not between disclosure with risk and confidentiality without risk. Both choices carry risk.

Obtaining the child's information directly and allowing meaningful access to material information may expose the child to anger, pressure, or retaliation.

Withholding, filtering, or concealing that information risks inaccurate findings, erroneous custody and parent-time decisions, reliance on second-hand characterizations, and adjudication based upon information an affected party cannot meaningfully answer.

When those risks genuinely conflict, the more principled choice for an adjudicative system is the one that preserves accurate factfinding and procedural fairness. The law should not purchase protection from possible retaliation at the price of deliberate ignorance of material information. The proper response to retaliation is to address retaliation.

If there is a demonstrated reason to fear that a parent will threaten, punish, intimidate, manipulate, pressure, or retaliate against the child for speaking honestly with the court, the court should take appropriate measures to prevent that conduct. If retaliation occurs, it should be addressed directly. And a parent's demonstrated willingness to retaliate against a child for communicating honestly with the court may itself be relevant to the very custody and parent-time determination before the court.

Privacy from the public may be appropriate. Secret adjudicative information is something different.

A judicial interview is not therapy. A therapist treats a patient. A judicial officer obtains information for use in deciding legal rights and obligations. Therapeutic confidentiality is therefore not the proper model for communications that may materially influence a custody or parent-time decision.

10. Paragraph (c)(5): one party should not control another party's access or response rights.

Proposed paragraph (c)(5) permits the parties jointly to waive access to the interview record, notice of the child's communications, and the right to respond. It further provides that an approved stipulation ordinarily precludes later access, including on appeal.

I do not object to permitting a competent party knowingly to waive that party's own access and response rights.

But the rule should make clear that one party cannot waive, block, or condition another party's rights.

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Nor should paragraph (c)(5) be reversed so that confidentiality becomes the default unless both parties consent to disclosure. That merely moves the veto. Either parent could then prevent the other from learning material information heard by the decision-maker simply by refusing to agree to access.

The cleaner principle is individual waiver: Each party may control that party's own waiver. One party's choice should not extinguish another party's access or response rights.

11. Paragraph (c)(6): tell the child the truth about confidentiality and retaliation.

I generally support paragraph (c)(6), which requires the judicial officer to explain the interview process directly to the child before questioning begins.

It is true that telling a child the interview may later be disclosed to the parties can affect what the child is willing to say. That does not justify misleading the child or creating an expectation of secrecy that the adjudicative process cannot fairly honor. The court should explain the situation truthfully, in age-appropriate language, substantially along these lines:

This interview is private from the public, but it is part of a court case. What you tell me may affect decisions I make. Because I have to be fair to the people whose rights I am deciding, what you tell me may have to be shared with the parties and their lawyers. You should tell me the truth even if you think someone may not like what you say. If you are worried that anyone may threaten you, pressure you, punish you, or retaliate against you because of what you tell me, you should tell me that too.

That warning does not eliminate risk. Nothing can. But it is honest, and it treats fear of retaliation as information the court should know rather than as a reason to avoid learning what the child has to say.

12. Paragraph (d)(2): replace "potentially dispositive" with materiality and provide meaningful access to the record.

Proposed paragraph (d)(2) recognizes an important principle: when a child makes a contested factual allegation that may determine the outcome, the parties must receive disclosure and an opportunity to respond before the court makes its final decision. The principle is sound. The threshold is too narrow.

The proposed rule uses "potentially dispositive." Child custody and parent-time determinations are rarely based on one isolated fact that independently decides the case. They ordinarily depend on the cumulative effect of facts, perceptions, relationships, experiences, concerns, preferences, and credibility assessments. A communication need not be independently dispositive to affect the result materially. Nor are a child's "views" always cleanly separable from factual assertions.

Consider:

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• "I don't want to stay with Dad because he scares me."
• "Mom told me not to tell Dad what happens at her house."
• "I want more time with Mom because Dad is never home."
• "I don't like going to Mom's because of how her boyfriend treats me."

Each statement contains some combination of preference, perception, explanation, and factual assertion. The court should not be permitted materially to rely on such information while withholding it simply because no isolated statement qualifies as "potentially dispositive." The better threshold is materiality.

I recommend language substantially along these lines:

Except to the extent a party has knowingly waived that party's own access and response rights, before making a decision based in whole or in material part upon a communication made by the child during the judicial interview concerning a contested matter, the court shall disclose the communication and sufficient surrounding context to permit a meaningful opportunity to respond with evidence and legal argument. If the communication cannot fairly be understood, evaluated, or answered without access to the interview record, the court shall provide such access.

Meaningful access should ordinarily include enough of the actual record to understand what the court heard and relied upon, not merely the court's characterization of it.

Context matters. The wording of the question matters. The wording of the answer matters. Follow-up questions, clarifications, qualifications, contradictions, and hesitations may matter. The judicial interview is valuable precisely because it removes intermediaries between the child and the decision-maker. Rule 110 should not then unnecessarily create a new intermediary by reducing the interview to the judge's later summary for the parties.

13. Protect the interview record from misuse, not from legitimate adjudicative access.

Meaningful party access does not require making the recording public or permitting unrestricted distribution.

Rule 110 can protect the child directly. It can restrict public access. It can prohibit publication or posting. It can prohibit dissemination to nonparties except as authorized by the court. It can prohibit use of the recording to harass, shame, interrogate, threaten, or intimidate the child. It can impose additional narrowly tailored protections when concrete circumstances justify them. Those restrictions target the potential misconduct itself.

What the rule should not do is use ignorance of what the child said as the method of preventing misuse. Proposed paragraph (d)(3) appropriately restricts disclosure of the interview contents and record to nonparties during the proceeding and after its conclusion. The rule should, however, clarify the duration and exceptions to that restriction, including whether

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and under what protections the interviewed child may later obtain the child's own interview record and when the record may be accessed if genuinely necessary in a later judicial proceeding concerning the child.

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Tab 7

MEMO

TO: URCP Committee Members
FROM: Meagan Rudd
RE: Proposed Changes to URCP 26
DATE: October 9, 2026

I recently had a divorce case that brought up a perceived problem in URCP 26(a)(4)(C). URCP 26(a)(4)(C) is the timing for expert discovery. Currently, the rule is written solely based upon whether the party "bears the burden of proof on the issue for which expert testimony is offered." Generally, in a civil litigation context, if you are not the party that bears the burden of proof you would not designate an expert, you would simply move for a directed verdict if the moving party closes without properly designating an expert on an issue that requires expert disclosure (such as a medical malpractice case). However, what about cases where the party bearing the burden doesn't necessarily have to designate an expert to win, but the opposing side feels like an expert would help their defense (aka their "case in chief")? Suddenly the rule stops making sense because all of the deadlines are based on a consecutive following of the rule (i.e. section (ii) timing is based on section (i) occurring and section (iii) timing is based on section (ii) occurring). Confusingly, then the last line is: "The court ***may*** preclude an expert disclosed only as a rebuttal expert from testifying in the case in chief." (emphasis added). This seems to imply that a party who bears the burden of proof may be able to get a "rebuttal" expert in- but the rule is written in such a way that it is impossible to determine the timing or due date of that "rebuttal." Further the rule is only written from the perspective of the party who bears the burden of proof, leaving deadlines for experts designated by parties who don't bear the burden of proof floundering.

In 22 years of practicing civil litigation, I haven't come across this issue. However, I hadn't practiced family law until the last 5 years or so. Family law gets hairy. Everyone knows this. In fact, the judge I was in front of said, "no one follows the rules in family law." Even at the family law seminar a few months ago, one of the presenters said a similar sentiment. This clearly bothers me! Without rules there is chaos- which leads to lazy lawyering and lazy judging. So with my case, we represented the husband. The wife (seeking alimony) had the burden of proving alimony. However, part of alimony factors in the husband's income. The husband has the burden to prove his own income. Additionally, we felt the estate was complex enough (including an allegation of dissipation by the wife) that we designated an expert. Wife did not. The time to oppose came and went and she did not designate an opposing expert. The time for rebuttal came and suddenly the wife designated an expert to oppose our initial expert. We filed a motion in limine to exclude the late designated expert, which the court denied. On appeal, we argued that the judge had to find harmlessness or good cause for their failure to timely designate. The appellate court brought up a good point: technically the wife had the burden of proof on alimony, the wording of (a)(4)(C)(iii) is based upon the party who bears the burden of proof so maybe the rule could be read that even though she didn't designate an initial expert, she could still file a rebuttal. The problem is, the timing in (a)(4)(C)(i)-(iii) are based on a consecutive reading as discussed above. I don't yet know how the appellate court will rule, but I thought it might be worth getting something before this committee to see if we can clarify things. Thanks!

Rule 26. General provisions governing disclosure and discovery.

Effective: ~~5/7/2025~~

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party must, without waiting for a discovery request, serve on the other parties:

(A) the name and, if known, the address and telephone number of:

(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(ii) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries, and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(E) a copy of all documents to which a party refers in its pleadings.

(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) must be served on the other parties:

(A) by a plaintiff within 14 days after the filing of the first answer to that plaintiff's complaint; and

(B) by a defendant within 42 days after the filing of that defendant's first answer to the complaint.

(3) Exemptions.

(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(ii) governed by Rule 65B or Rule 65C;

(iii) to enforce an arbitration award; or

(iv) for water rights general adjudication under Utah Code Title 73, Chapter 4, Determination of Water Rights.

(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(4) Expert testimony.

(A) Disclosure of retained expert testimony. A party must, without waiting for a discovery request, serve on the other parties the following information regarding any person who may be used at trial to present evidence under Rule702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert's name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) the facts, data, and other information specific to the case that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness's study and testimony.

(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition must not exceed four hours and the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition. A report must be signed by the expert and must contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert must pay the costs for the report.

(C) Timing for expert discovery.

(i) Initial Designation. On issues where t~~T~~he party who bears the burden of proof on the issue for which expert testimony is required or, in cases where an expert is not required, when either party chooses to elect for their case in chief, the party~~offered~~ must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the close of fact discovery. Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(ii) Opposing Designation. The party who does not bear the burden of proof on the issue for which expert testimony is ~~offered~~ required or, in cases where an expert is not required, the initial non-serving party must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the disclosure under paragraph (a)(4)(C)(i) is due, or (B)

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service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(iii) Rebuttal Designation. If an opposing expert is designated under section (ii) and the party who filed the initial designation under section (i) ~~bears the burden of proof on an issue~~ wants to designate rebuttal expert witnesses, it must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due or (B) service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted. The court may preclude an expert disclosed only as a rebuttal expert from testifying in the case in chief.

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(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing

the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). Such a witness cannot be required to provide a report pursuant to paragraph (a)(4)(B). A deposition of such a witness may not exceed four hours and, unless manifest injustice would result, the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition.

(5) Pretrial disclosures.

(A) A party must, without waiting for a discovery request, serve on the other parties:

(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition;

(iii) designations of the proposed deposition testimony; and

(iv) a copy of each exhibit, including charts, summaries, and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.

(B) Disclosure required by paragraph (a)(5)(A) must be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) must also be filed on the date that they are served. At least 14 days before trial, a party must serve any counter designations of deposition testimony and any objections and grounds for the objections to the use of any deposition, witness, or exhibit if the grounds for the objection are apparent before trial. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, other objections not listed are waived unless excused by the court for good cause.

(6) Form of disclosure and discovery production. Rule 34 governs the form in which all documents, data compilations, electronically stored information, tangible things, and evidentiary material should be produced under this Rule.

(b) Discovery scope.

(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below.

(2) Privileged matters.

(A)Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include:

(i) all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in Utah Code Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider; and

(ii) except as provided in paragraph (b)(2)(C), (D), or (E), all communications, materials, and information in any form specifically created for or during a medical candor process under Utah Code Title 78B, Chapter 3, Part 4a, Utah Medical Candor Act, including any findings or conclusions from the investigation and any offer of compensation.

(B) Disclosure or use in a medical candor process of any communication, material, or information in any form that contains any information described in paragraph (b)(2)(A)(i) does not waive any privilege or protection against admissibility or discovery of the information under paragraph (b)(2)(A)(i).

(C) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not created for or during a medical candor process is not privileged by the use or disclosure of the communication, material or information during a medical candor process.

(D) (i) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(ii) Information described in paragraph (b)(2)(D)(i) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(E) (i) Any communication, material or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(ii) Any communication, material, or information described in paragraph (b)(2)(E)(i) does not include a written notice described in Utah Code section 78B-3-452.

(F) The terms defined in Utah Code section 78B-3-450 apply to paragraphs (b)(2)(A)(ii), (B), (C), (D), and (E).

(G) Nothing in this paragraph (b)(2) shall prevent a party from raising any other privileges provided by law or rule as to the admissibility or discovery of any communication, information, or material described in paragraph (b)(2)(A), (B), (C), (D), or (E).

(3) Proportionality. Discovery and discovery requests are proportional if:

(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(C) the discovery is consistent with the overall case management and will further the just, speedy, and inexpensive determination of the case;

(D) the discovery is not unreasonably cumulative or duplicative;

(E) the information cannot be obtained from another source that is more convenient, less burdensome, or less expensive; and

(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

(4) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

(5) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost must

describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

(6) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(7) Statement previously made about the action. A party may obtain without the showing required in paragraph (b)(5) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is (A) a written statement signed or approved by the person making it, or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(8) Trial preparation; experts.

(A) Trial-preparation protection for draft reports or disclosures. Paragraph (b)(6) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is recorded.

(B) Trial-preparation protection for communications between a party's attorney and expert witnesses. Paragraph (b)(6) protects communications

between the party's attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(C) Expert employed only for trial preparation. Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(9) Claims of privilege or protection of trial preparation materials.

(A) Information withheld. If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party must make the claim expressly and must describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(B) Information produced. If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has and

may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

(C) Information disclosed in legislative audit. If a party is an entity that is subject to an audit by the legislative auditor general under Utah Constitution, Article VI, Section 33, and information that is privileged or prepared in anticipation of litigation or for trial is disclosed to the legislative auditor general or an arbitrator as described in Utah Code section 36-12-15, the disclosure to the legislative auditor general or the arbitrator does not make the information discoverable or prevent the party from claiming that the information is privileged and prepared in anticipation of litigation or for trial.

(c) Methods, sequence, and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.

(1) Methods of discovery. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(2) Sequence and timing of discovery. Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery must not delay any other party's discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party’s initial disclosure obligations are satisfied.

(3) Definition of tiers for standard discovery. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2. Domestic relations actions are permitted standard discovery as described for Tier 4.

(4) Definition of damages. For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(5) Limits on standard fact discovery. Standard fact discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant's first disclosure is due and do not include expert discovery under paragraphs (a)(4)(C) and (D).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Standard Fact Discovery
1	$50,000 or less	3	0	5	5	120

2	More than $50,000 and less than $300,000 or non-monetary relief	15	10	10	10	180
3	$300,000 or more	30	20	20	20	210
4	Domestic relations actions	4	10	10	10	90

(6) Extraordinary discovery. To obtain discovery beyond the limits established in paragraph (c)(5), a party must:

(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and, for each party represented by an attorney, a statement that the attorney consulted with the client about the request for extraordinary discovery;

(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a request for extraordinary discovery under Rule 37(a) or

(C) obtain an expanded discovery schedule under Rule 100A.

(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.

(1) A party must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party must act through one or more officers, directors, managing agents, or other persons, who must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case, the party challenges the sufficiency of another party's disclosures or responses, or another party has not made disclosures or responses.

(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document, or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

(e) Signing discovery requests, responses, and objections. Every disclosure, request for discovery, response to a request for discovery, and objection to a request for discovery must be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of the rule, the court,

upon motion or upon its own initiative, may take any action authorized by Rule11 or Rule37(b).

(f) Filing. Except as required by these rules or ordered by the court, a party must not file with the court a disclosure, a request for discovery, or a response to a request for discovery, but must file only the certificate of service stating that the disclosure, request for discovery, or response has been served on the other parties and the date of service.

Advisory Committee Notes

Note Adopted 2011

Disclosure requirements and timing. Rule 26(a)(1).

Not all information will be known at the outset of a case. If discovery is serving its proper purpose, additional witnesses, documents, and other information will be identified. The scope and the level of detail required in the initial Rule 26(a)(1) disclosures should be viewed in light of this reality. A party is not required to interview every witness it ultimately may call at trial in order to provide a summary of the witness's expected testimony. As the information becomes known, it should be disclosed. No summaries are required for adverse parties, including management level employees of business entities, because opposing lawyers are unable to interview them and their testimony is available to their own counsel. For uncooperative or hostile witnesses any summary of expected testimony would necessarily be limited to the subject areas the witness is reasonably expected to testify about. For example, defense counsel may be unable to interview a treating physician, so the initial summary may only disclose that the witness will be questioned concerning the plaintiff's diagnosis, treatment and prognosis. After medical records have been obtained, the summary may be expanded or refined.

Subject to the foregoing qualifications, the summary of the witness's expected testimony should be just that– a summary. The rule does not require prefiled testimony or detailed descriptions of everything a witness might say at trial. On the other hand, it requires more than the broad, conclusory statements that often were made under the prior version of Rule 26(a)(1)(e.g., "The witness will testify about the events in question" or "The witness

will testify on causation."). The intent of this requirement is to give the other side basic information concerning the subjects about which the witness is expected to testify at trial, so that the other side may determine the witness's relative importance in the case, whether the witness should be interviewed or deposed, and whether additional documents or information concerning the witness should be sought. *See RJW Media Inc. v. Heath*, 2017 UT App 34, ¶¶ 23-25, 392 P.3d 956. This information is important because of the other discovery limits contained in Rule 26.

Likewise, the documents that should be provided as part of the Rule 26(a)(1) disclosures are those that a party reasonably believes it may use at trial, understanding that not all documents will be available at the outset of a case. In this regard, it is important to remember that the duty to provide documents and witness information is a continuing one, and disclosures must be promptly supplemented as new evidence and witnesses become known as the case progresses.

Early disclosure of damages information is important. Among other things, it is a critical factor in determining proportionality. The committee recognizes that damages often require additional discovery, and typically are the subject of expert testimony. The Rule is not intended to require expert disclosures at the outset of a case. At the same time, the subject of damages should not simply be deferred until expert discovery. Parties should make a good faith attempt to compute damages to the extent it is possible to do so and must in any event provide all discoverable information on the subject, including materials related to the nature and extent of the damages.

The penalty for failing to make timely disclosures is that the evidence may not be used in the party's case-in-chief. To make the disclosure requirement meaningful, and to discourage sandbagging, parties must know that if they fail to disclose important information that is helpful to their case, they will not be able to use that information at trial. The courts will be expected to enforce them unless the failure is harmless or the party shows good cause for the failure.

The purpose of early disclosure is to have all parties present the evidence they expect to use to prove their claims or defenses, thereby giving the opposing party the ability to

better evaluate the case and determine what additional discovery is necessary and proportional.

Expert disclosures and timing. Rule 26(a)(3).Disclosure of the identity and subjects of expert opinions and testimony is automatic under Rule 26(a)(3) and parties are not required to serve interrogatories or use other discovery devices to obtain this information.

Experts frequently will prepare demonstrative exhibits or other aids to illustrate the expert's testimony at trial, and the costs for preparing these materials can be substantial. For that reason, these types of demonstrative aids may be prepared and disclosed later, as part of the Rule 26(a)(4) pretrial disclosures when trial is imminent.

If a party elects a written report, the expert must provide a signed report containing a complete statement of all opinions the expert will express and the basis and reasons for them. The intent is not to require a verbatim transcript of exactly what the expert will say at trial; instead the expert must fairly disclose the substance of and basis for each opinion the expert will offer. The expert may not testify in a party's case in chief concerning any matter that is not fairly disclosed in the report. To achieve the goal of making reports a reliable substitute for depositions, courts are expected to enforce this requirement. If a party elects a deposition, rather than a report, it is up to the party to ask the necessary questions to "lock in" the expert's testimony. But the expert is expected to be fully prepared on all aspects of his/her trial testimony at the time of the deposition and may not leave the door open for additional testimony by qualifying answers to deposition questions.

There are a number of difficulties inherent in disclosing expert testimony that may be offered from fact witnesses. First, there is often not a clear line between fact and expert testimony. Many fact witnesses have scientific, technical or other specialized knowledge, and their testimony about the events in question often will cross into the area of expert testimony. The rules are not intended to erect artificial barriers to the admissibility of such testimony. Second, many of these fact witnesses will not be within the control of the party who plans to call them at trial. These witnesses may not be cooperative, and may

not be willing to discuss opinions they have with counsel. Where this is the case, disclosures will necessarily be more limited. On the other hand, consistent with the overall purpose of the 2011 amendments, a party should receive advance notice if their opponent will solicit expert opinions from a particular witness so they can plan their case accordingly. In an effort to strike an appropriate balance, the rules require that such witnesses be identified and the information about their anticipated testimony should include that which is required under Rule 26(a)(1)(A)(ii), which should include any opinion testimony that a party expects to elicit from them at trial. If a party has disclosed possible opinion testimony in its Rule 26(a)(1)(A)(ii) disclosures, that party is not required to prepare a separate Rule 26 (a)(4)(E) disclosure for the witness. And if that disclosure is made in advance of the witness's deposition, those opinions should be explored in the deposition and not in a separate expert deposition. Otherwise, the timing for disclosure of non-retained expert opinions is the same as that for retained experts under Rule 26(a)(4)(C) and depends on whether the party has the burden of proof or is responding to another expert.

Scope of discovery—Proportionality. Rule 26(b). Proportionality is the principle governing the scope of discovery. Simply stated, it means that the cost of discovery should be proportional to what is at stake in the litigation.

In the past, the scope of discovery was governed by "relevance" or the "likelihood to lead to discovery of admissible evidence." These broad standards may have secured just results by allowing a party to discover all facts relevant to the litigation. However, they did little to advance two equally important objectives of the rules of civil procedure—the speedy and inexpensive resolution of every action. Accordingly, the former standards governing the scope of discovery have been replaced with the proportionality standards in subpart (b)(1).

The concept of proportionality is not new. The prior rule permitted the Court to limit discovery methods if it determined that "the discovery was unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the

litigation." The Federal Rules of Civil Procedure contains a similar provision. See Fed. R. Civ. P. 26(b)(2) (C).

Any system of rules which permits the facts and circumstances of each case to inform procedure cannot eliminate uncertainty. Ultimately, the trial court has broad discretion in deciding whether a discovery request is proportional. The proportionality standards in subpart (b)(2) and the discovery tiers in subpart (c) mitigate uncertainty by guiding that discretion. The proper application of the proportionality standards will be defined over time by trial and appellate courts.

Standard and extraordinary discovery. Rule 26(c). As a counterpart to requiring more detailed disclosures under Rule 26(a), the 2011 amendments place new limitations on additional discovery the parties may conduct. Because the committee expects the enhanced disclosure requirements will automatically permit each party to learn the witnesses and evidence the opposing side will offer in its case-in-chief, additional discovery should serve the more limited function of permitting parties to find witnesses, documents, and other evidentiary materials that are harmful, rather than helpful, to the opponent's case.

Parties are expected to be reasonable and accomplish as much as they can during standard discovery. A statement of discovery issues may result in additional discovery and sanctions at the expense of a party who unreasonably fails to respond or otherwise frustrates discovery. After the expiration of the applicable time limitation, a case is presumed to be ready for trial. Actions for nonmonetary relief, such as injunctive relief, are subject to the standard discovery limitations of Tier 2, absent an accompanying monetary claim of $300,000 or more, in which case Tier 3 applies.

Consequences of failure to disclose. Rule 26(d). If a party fails to disclose or to supplement timely its discovery responses, that party cannot use the undisclosed witness, document, or material at any hearing or trial, absent proof that non-disclosure was harmless or justified by good cause. More complete disclosures increase the likelihood that the case will be resolved justly, speedily, and inexpensively. Not being able to use evidence that a party fails properly to disclose provides a powerful incentive

to make complete disclosures. This is true only if trial courts hold parties to this standard. Accordingly, although a trial court retains discretion to determine how properly to address this issue in a given case, the usual and expected result should be exclusion of the evidence.

Legislative Note

Note adopted 2012

S.J.R. 15

(1) The amended language in paragraph (b)(1) is intended to incorporate long-standing protections against discovery and admission into evidence of privileged matters connected to medical care review and peer review into the Utah Rules of Civil Procedure. These privileges, found in both Utah common law and statute, include Sections 26-25-3, 58-13-4, and 58-13-5, UCA, 1953. The language is intended to ensure the confidentiality of peer review, care review, and quality assurance processes and to ensure that the privilege is limited only to documents and information created specifically as part of the processes. It does not extend to knowledge gained or documents created outside or independent of the processes. The language is not intended to limit the court's existing ability, if it chooses, to review contested documents in camera in order to determine whether the documents fall within the privilege. The language is not intended to alter any existing law, rule, or regulation relating to the confidentiality, admissibility, or disclosure of proceedings before the Utah Division of Occupational and Professional Licensing. The Legislature intends that these privileges apply to all pending and future proceedings governed by court rules, including administrative proceedings regarding licensing and reimbursement.

(2) The Legislature does not intend that the amendments to this rule be construed to change or alter a final order concerning discovery matters entered on or before the effective date of this amendment.

(3) The Legislature intends to give the greatest effect to its amendment, as legally permissible, in matters that are pending on or may arise after the effective date of this amendment, without regard to when the case was filed.

Effective date. Upon approval by a constitutional two-thirds vote of all members elected to each house. [March 6, 2012]

The May 7, 2025 effective date is upon approval by a constitutional two-thirds vote of all members elected to each house.

Tab 8

Rule 23. Class actions.

Effective:

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(a) Prerequisites to a class action. One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

(b) Class actions maintainable. An action may be maintained as a class action if the prerequisites of Subdivision (a) are satisfied, and in addition:

~~(b)~~(1) The prosecution of separate actions by or against individual members of the class would create a risk of:

~~(b)(1)~~(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

~~(b)(1)~~(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

~~(b)~~(2) The party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(b)(3) The court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the

desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action.

(c) Determination by order whether class action to be maintained; notice; judgment; actions conducted partially as class actions.

~~(c)~~(1) As soon as practicable after the commencement of an action brought as a class action, the court will~~shall~~ determine by order whether it is to be maintained. An order under this subdivision may be conditional, and may be altered or amended before the decision on the merits.

~~(c)~~(2) In any class action maintained under Subdivision (b)(3), the court will~~shall~~ direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice will~~shall~~ advise each member that (A) the court will exclude him from the class if he so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if he desires, enter an appearance through his counsel.

~~(c)~~(3) The judgment in an action maintained as a class action under Subdivision (b)(1) or (b)(2), whether or not favorable to the class, will~~shall~~ include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Subdivision (b)(3), whether or not favorable to the class, will~~shall~~ include and specify or describe those to whom the notice provided in Subdivision (c)(2) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

~~(c)~~(4) When appropriate (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this rule will ~~shall~~ then be construed and applied accordingly.

(d) Orders in conduct of actions. In the conduct of actions to which this rule applies, the court may make appropriate orders: (1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument; (2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (3) imposing conditions on the representative parties or on intervenors; (4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; (5) dealing with similar procedural matters. The orders may be combined with an order under Rule 16, and may be altered or amended as may be desirable from time to time.

(e) Settlement, Voluntary Dismissal, or Ceompromise. ~~A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.~~ The claims, issues, or defenses of a certified class—or a class proposed to be certified for purposes of settlement—may be settled, voluntarily dismissed, or compromised only with the court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

(1) **Notice to the Class.**

(A) **Information That Parties Must Provide to the Court.** The parties must provide the court with information sufficient to enable it to determine whether to give notice of the proposal to the class.

(B) **Grounds for a Decision to Give Notice.** The court must direct notice in a reasonable manner to all class members who would be bound by the

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proposal if giving notice is justified by the parties' showing that the court will likely be able to:

(i) approve the proposal under Rule 23(e)(2); and

(ii) certify the class for purposes of judgment on the proposal.

(2) **Approval of the Proposal.** If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether:

(A) the class representatives and class counsel have adequately represented the class;

(B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorney's fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

(3) **Identifying Agreements.** The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) **New Opportunity to Be Excluded.** If the class action was previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) **Class-Member Objections.**

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(A) **In General.** Any class member may object to the proposal if it requires court approval under this subdivision (e). The objection must state whether it applies only to the objector, to a specific subset of the class, or to the entire class, and also state with specificity the grounds for the objection.

(B) **Court Approval Required for Payment in Connection with an Objection.** Unless approved by the court after a hearing, no payment or other consideration may be provided in connection with:

(i) forgoing or withdrawing an objection, or

(ii) forgoing, dismissing, or abandoning an appeal from a judgment approving the proposal.

(C) **Procedure for Approval After an Appeal.** If approval under Rule 23(e)(5)(B) has not been obtained before an appeal is docketed in the court of appeals, the procedure of Rule 62.1 applies while the appeal remains pending.

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