

1 **Rule 38. Jury trial of right**

2 (a) The court is the trier of fact and law in all actions before the court.

3 (b) **Demand and waiver.**

4 (1) By filing a complaint in the court, a plaintiff waives the plaintiff's right to a jury
5 trial on all claims and issues raised in the complaint and consents to the court as the
6 trier of fact as set forth in Utah Code section 78A-5a-104.

7 (2) A defendant may demand a trial by jury on any issue triable of right by a jury by
8 filing with the court and serving on the other parties a jury trial demand no later
9 than the date on which such defendant files its initial responsive pleading. If the
10 defendant does not timely file a jury trial demand, the defendant waives the right to
11 a jury trial for the claims asserted in the complaint.

12 (3) If a defendant asserts a counterclaim, the defendant may demand a jury trial on
13 any issue triable of right by a jury on any claim asserted in the counterclaim by filing
14 with the court and serving on the other parties a jury trial demand no later than the
15 date on which the defendant files its counterclaim. If the defendant does not timely
16 file a jury trial demand, the defendant waives the right to a jury trial for the claims
17 asserted in the counterclaim.

18 (4) A party responding to a counterclaim or crossclaim may file a jury trial demand
19 with the court and serve it upon the other parties in the action no later than the date
20 on which such party files its initial responsive pleading to the counterclaim or
21 crossclaim. If the responding party does not file a timely jury trial demand, the
22 responding party waives the right to a jury trial for the claims asserted in the
23 counterclaim or crossclaim.

24 (5) **Specification of issues.** In its jury trial demand, a party may specify the issues
25 which the party wants tried to a jury. The court will deem the party to have
26 demanded trial by jury for all triable issues if no specification is made.

27 (6) If any party contests another party's jury trial demand, the contesting party must
28 file with the court a motion to strike the jury trial demand no later than 14 days after
29 service of the demand. If no such motion has been timely filed, the party who
30 demanded the jury must file a notice informing the court that a jury demand has
31 been made and no motion to strike the demand has been filed.

32 (7) If the court determines that the party demanding a jury trial has the right to a
33 trial by jury on one or more issues, or if a jury demand has been filed and no motion
34 to strike has been timely filed, the court will order the transfer of all issues to be
35 tried by jury to the district court as set forth in Utah Code section 78A-5a-104.

36 (c) **Withdrawal.** A jury trial demand may not be withdrawn without the parties'
37 consent.

38 *Effective May/November 1, 20__*

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