

Rule 73. Attorney fees.

Effective: 5/1/2019

(a) **Time in which to claim.** Attorney fees ~~may~~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 ~~section~~§ 75-3-718, ~~when and~~ no objection to the fee has been made.

(b) **Content of motion.** The motion must:

~~(b)~~(1) specify the statute, rule, contract, judgment, or other basis entitling the party to the award;

~~(b)~~(2) disclose, if the court orders, the terms of any agreement about fees for the services for which the claim is made;

~~(b)~~(3) specify factors showing the reasonableness of the fees, if applicable;

~~(b)~~(4) specify the amount of attorney fees claimed and any amount previously awarded; and

~~(b)~~(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 ~~5.4~~.

(c) **Supporting affidavit.** The motion must be supported by an affidavit or declaration that ~~(1)~~ reasonably describes the time spent and work performed, including for each item of work the name, position (such as attorney, paralegal, administrative assistant, etc.), and hourly rate of the persons who performed the work, and ~~(2)~~ establishes that the claimed fee is reasonable.

(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 ~~established~~ liability for fees, the party claiming them may file an affidavit as provided in paragraph

(c) and a proposed order. The court will enter an order for the claimed amount unless another party objects within seven⁷ days after the affidavit and proposed order are filed.

(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~~Rule of Professional Conduct 5.4.~~

(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 paragraphs ~~(f)(1), (f)(2) and (f)(3)~~, and only where the augmented fees sought exceed those fees that were already awarded.

~~(f)(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 ~~either evidence or argument~~, and the party seeking the judgment has complied with paragraph (e) ~~of this rule~~, then the request for judgment may include a request for attorney fees, ~~and~~ The clerk or the court will~~shall~~ allow any amount requested up to ~~\$350.00~~\$475.00 for ~~such~~ those attorney fees without a supporting affidavit.

~~(f)(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 ~~either evidence or argument~~, 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, ~~and~~ The clerk or the court ~~shall~~ will allow any amount requested up to \$1,020.00~~\$750~~ for ~~such~~ those attorney fees without a supporting affidavit.

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

~~(f)(3)~~(A) applies for any writ ~~pursuant to~~ under Rules 64, 64A, 64B, 64C, 64D, or 64E; or

~~(f)(3)~~(B) files a motion ~~pursuant to~~ under Rules 64(c)(2) or 58C or ~~pursuant to~~ under Utah Code section § 35A-4-314,

then the party may request as part of ~~its~~ the application for a writ or ~~its~~ in the motion that the party's judgment be augmented according to the following schedule, ~~and~~ The clerk or the court ~~shall~~ will allow ~~such~~ that augmented attorney fees request without a supporting affidavit if it approves the writ or motion.

Action	Attorney Fees Allowed
Application for any writ under Rules <u>64</u> , <u>64A</u> , <u>64B</u> , <u>64C</u> , or <u>64E</u> , and first application for a writ under <u>Rule 64D</u> to any particular garnishee;	<u>\$105.00</u> \$75.00
Any subsequent application for a writ under <u>Rule 64D</u> to the same garnishee;	<u>\$35.00</u> \$25.00
Any motion filed with the court under <u>Rule 64</u> (c)(2), Utah Code <u>section</u> <u>§</u> 35A-4-314, or <u>Rule 58C</u> ;	<u>\$105.00</u> \$75.00
Any subsequent motion under <u>Rule 64</u> (c)(2), Utah Code <u>section</u> <u>§</u> 35A-4-314, or <u>Rule 58C</u> filed within 6 months of the previous motion.	<u>\$35.00</u> \$25.00

~~(f)(4)~~ **Fees in excess of the schedule.** If a party seeks attorney fees in excess of the amounts set forth in this paragraph ~~s~~ ~~(f)(1)~~, ~~(f)(2)~~, or ~~(f)(3)~~, then the party ~~shall~~ must comply with paragraphs (a) through (c) ~~of this rule~~.

(5) **Objections.** Nothing in this paragraph ~~shall be deemed to eliminate~~ any right a party may have to object to any claimed attorney fees.

Advisory Committee Notes:

2018 Amendments

An overwhelming number of cases filed in the courts, especially debt collection cases, result in the entry of an uncontested judgment. The work required in most cases to obtain an uncontested judgment does not typically depend on the amount at issue. As such, the prior schedule of fees based on the amount of damages has been eliminated, and instead replaced by a single fee upon entry of an uncontested judgment that is intended to approximate the work required in the typical case. A second amount is provided where the case is contested and fees are allowed, again in an effort to estimate the typical cost of litigating such cases. Where additional work is required to collect on the judgment, the revised rule provides a default amount for writs and certain motions and eliminates the “considerable additional efforts” limitation of the prior rule. It also recognizes that defendants often change jobs, and thus provides for such default amounts to vary depending on whether a new garnishee is required to collect on the outstanding amount of the judgment. Thus, the amended rule attempts to match the scheduled amounts to the work required of attorneys, rather than tying the scheduled amounts solely to the damages claimed. But the rule remains flexible so that when attorney fees exceed the scheduled amounts, a party remains free to file an affidavit requesting appropriate fees in accordance with the rule.

2019 Amendments

Rule 73 has been amended in response to *McQuarrie v. McQuarrie*, 2017 UT App 209, and *Chaparro v. Torero*, 2018 UT App 181, to clarify that the rule applies to all motions for attorney fees, not just post-judgment motions.

Prior rule amendments and committee discussions

93 For more information on prior rule amendments, please
94 visit <https://legacy.utcourts.gov/utc/rules-approved/>. Prior versions of the court rules
95 and pre-2004 court rule amendments are also available at the State Law
96 Library: <https://legacy.utcourts.gov/lawlibrary/>.

97 For discussion materials on rule amendments, please visit the web blog of the Advisory
98 Committee on the Utah Rules of Civil Procedure
99 at <https://legacy.utcourts.gov/utc/civproc/>.

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