1   **Rule 102. Motion and order for payment of costs and fees.**

2   (a) In an action under Utah Code ~~S~~section ~~30-3-3(1)~~81-1-203(1), either party may move the

3   court for an order requiring the other party to provide costs, attorney fees, and witness fees,

4   including expert witness fees, to enable the moving party to prosecute or defend the action. The

5   motion ~~shall~~ must be accompanied by an affidavit setting forth the factual basis for the motion

6   and the amount requested. The motion may include a request for costs or fees incurred~~:~~

7   ~~(a)~~(1) prior to the commencement of the action,~~;~~

8   ~~(a)~~(2) during the action,~~;~~ or

9   ~~(a)~~(3) after entry of judgment for the costs of enforcement of the judgment.

10   (b) The court may grant the motion, in whole or in part, if the court finds that:

11   ~~(b)~~(1) the moving party lacks the financial resources to pay the costs and fees;

12   ~~(b)~~(2) the non-moving party has the financial resources to pay the costs and fees;

13   ~~(b)~~(3) the costs and fees are necessary for the proper prosecution or defense of the action; and

14   ~~(b)~~(4) the amount of the costs and fees is~~are~~ reasonable.

15   ~~(c) The court may deny the motion or award limited payment of costs and fees if the court finds~~

16   ~~that one or more of the grounds in paragraph (b) is missing or enters in the record the reason for~~

17   ~~denial of the motion.~~

18   (c~~d~~) The order ~~shall~~ will specify the amount of costs and fees to be paid. The award must be paid

19   within 30 days of entry of the order in a lump sum unless~~or~~ the court ~~shall will enter find~~orders

20   otherwise. ~~ings of fact that a delay in payment will not create an undue hardship to the moving~~

21   ~~party and will not impair the ability of the moving party to prosecute or defend the action. The~~

22   ~~court~~order ~~will~~ shall specify the amount to be paid~~.~~

23   (d) The court ~~may order the amount to be paid in a lump sum or in periodic payments. The court~~

24   may order the fees to be paid to the moving party or to the provider of the services for which the

25   fees are awarded.

26   *Effective:*