

**Rule 38. Jury trial of right**

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

**(b) Demand and waiver.**

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

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

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

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

**(5) Specification of issues and venue.** In its jury trial demand, a party:

(A) must identify the county in which the party contends the case should be tried pursuant to Utah Code section 78B-3a-~~201307~~[201307](#); and

(B) may specify the issues which the party wants tried to a jury. The court will deem the party to have demanded trial by jury for all triable issues if no specification is made pursuant to this rule.

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

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

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

*Effective: ~~9/1/2024~~*