

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

2 (a) **Right preserved.** The right of trial by jury as declared by the constitution or as given
3 by statute shall be preserved to the parties.

4 (b) **Demand.** Any party may demand a trial by jury of any issue triable of right by a jury
5 by paying the statutory jury fee subject to the following:

6 (1) By filing a complaint, counterclaim or crossclaim in this court, the filing party
7 consents to a non-jury bench trial in this court, as set forth in Utah Code section 78A-
8 5a-104, and waives a jury trial demand for the claims asserted in the complaint,
9 counterclaim, crossclaim, and any amendment thereto.

10 (2) No later than 30 days after service of summons of the complaint on the defendant
11 and before defendant responds to the complaint by answer or motion, the defendant
12 must file a jury trial demand with the court and serve it upon the other parties in the
13 action. If the defendant does not file a jury trial demand by that deadline, the
14 defendant waives the right to demand a jury trial for the claims asserted in the
15 complaint.

16 (3) No later than 14 days after service of a counterclaim or crossclaim on a party, the
17 responding party must file a jury trial demand with the court and serve it upon the
18 other parties in the action. If the responding party does not file a jury trial demand
19 by that deadline, the responding party waives the right to demand a jury trial for the
20 claims asserted in the counterclaim or crossclaim.

21 (4) If any party seeks to contest another party's jury trial demand, by contract or
22 otherwise, it must file a motion to deny the jury trial demand with the court no later
23 than 14 days after service of the jury trial demand.

24 (c) **Same: specification of issues.** In his demand a party may specify the issues which he
25 wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the
26 issues so triable.

27 (d) **Waiver.** The failure of a party to pay the statutory fee, to serve a demand as required
28 by this rule and to file it as required by Rule 5(d) constitutes a waiver by him of trial by
29 jury. A demand for trial by jury made as herein provided may not be withdrawn without
30 the consent of the parties.

31 **Advisory Committee Notes**

32 *Note adopted [YEAR]*

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37 *Effective May/November 1, 20__*