

1 **Rule 73. Attorney fees.**

2 (a) **Time in which to claim.** Attorney fees must be claimed by filing a motion for attorney fees no
3 later than 14 days after the judgment is entered, except as provided in paragraph (f) of this rule, or in
4 accordance with Utah Code § 75-3-718, and no objection to the fee has been made.

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

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

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

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

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

12 (b)(5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the
13 terms of any agreement for sharing the fee and a statement that the attorney will not share the fee in
14 violation of Rule of Professional Conduct 5.4.

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

19 (d) **Liability for fees.** The court may decide issues of liability for fees before receiving submissions
20 on the value of services. If the court has established liability for fees, the party claiming them may file an
21 affidavit and a proposed order. The court will enter an order for the claimed amount unless another party
22 objects within 7 days after the affidavit and proposed order are filed.

23 (e) **Fees claimed in complaint.** If a party claims attorney fees under paragraph (f), the complaint
24 must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award,
25 and state that the attorney will not share the fee in violation of Rule of Professional Conduct 5.4.

26 (f) **Fees.** Attorney fees awarded under this rule may be augmented upon submission of a motion and
27 supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the
28 fees were incurred, except as provided in paragraphs (f)(1), (f)(2) and (f)(3), and only where the
29 augmented fees sought exceed those already awarded.

30 (f)(1) **Fees upon entry of uncontested judgment.** When a party seeks a judgment, the
31 responding party does not contest entry of judgment by presenting at a hearing either evidence or
32 argument, and the party seeking the judgment has complied with paragraph (e) of this rule, the
33 request for judgment may include a request for attorney fees, and the clerk or the court shall allow
34 any amount requested up to \$350.00 for such attorney fees without a supporting affidavit.

35 (f)(2) **Fees upon entry of judgment after contested proceeding.** When a party seeks a
36 judgment, the responding party contests the judgment by presenting at a hearing either evidence or
37 argument, and the party seeking the judgment has established its right to attorney fees, the request

38 for judgment may include a request for attorney fees, and the clerk or the court shall allow any
39 amount requested up to \$750 for such attorney fees without a supporting affidavit.

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

42 (f)(3)(A) applies for any writ pursuant to Rules [64](#), [64A](#), [64B](#), [64C](#), [64D](#), or [64E](#); or

43 (f)(3)(B) files a motion pursuant to Rules 64(c)(2) or 58C or pursuant to Utah Code § 35A-
44 4-314,

45 the party may request as part of its application for a writ or its motion that the party's judgment be
46 augmented according to the following schedule, and the clerk or the court shall allow such
47 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 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee;	\$75.00
Any subsequent application for a writ under Rule 64D to the same garnishee;	\$25.00
Any motion filed with the court under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C;	\$75.00
Any subsequent motion under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C filed within 6 months of the previous motion.	\$25.00

48 (f)(4) **Fees in excess of the schedule.** If a party seeks attorney fees in excess of the amounts
49 set forth in paragraphs (f)(1), (f)(2), or (f)(3), the party shall comply with paragraphs (a) through (c) of
50 this rule.
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52 (f)(5) **Objections.** Nothing in this paragraph shall be deemed to eliminate any right a party may
53 have to object to any claimed attorney fees.
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55 Advisory Committee Notes:

56 2018 Amendments

57 An overwhelming number of cases filed in the courts, especially debt collection cases, result in the
58 entry of an uncontested judgment. The work required in most cases to obtain an uncontested judgment
59 does not typically depend on the amount at issue. As such, the prior schedule of fees based on the
60 amount of damages has been eliminated, and instead replaced by a single fee upon entry of an
61 uncontested judgment that is intended to approximate the work required in the typical case. A second
62 amount is provided where the case is contested and fees are allowed, again in an effort to estimate the
63 typical cost of litigating such cases. Where additional work is required to collect on the judgment, the
64 revised rule provides a default amount for writs and certain motions and eliminates the "considerable

65 additional efforts” limitation of the prior rule. It also recognizes that defendants often change jobs, and
66 thus provides for such default amounts to vary depending on whether a new garnishee is required to
67 collect on the outstanding amount of the judgment. Thus, the amended rule attempts to match the
68 scheduled amounts to the work required of attorneys, rather than tying the scheduled amounts solely to
69 the damages claimed. But the rule remains flexible so that when attorney fees exceed the scheduled
70 amounts, a party remains free to file an affidavit requesting appropriate fees in accordance with the rule.
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72 New 2019 Committee Note

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