

### SMALL CLAIMS ISSUES

**UCA § 78A-8-102 :** A small claims action is a civil action for the recovery of money where (i) **amount including attorney’s fees** but exclusive of court costs and interest DOES NOT exceed \$10, 000, and (ii) defendant resides or action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained.

**UCA § 78A-8-104(1):** The hearing in a small claims action has the sole object of dispensing speedy justice between the parties.

**JURY TRIAL: Simler v. Chilel (2016 UT 23):** “Article I Section 10 of the Utah Constitution guarantees the right to a jury trial in a small claims trial de novo.”

**URSCP 6(a): Pretrial.** No discovery, but parties are encouraged to exchange information.

**Utah Code Ann. § 78A-8-106: APPEALS:** Either party may appeal the judgment in a small claims action to the district court of the county by filing a notice of appeal to the original trial court within 30 days of entry of the judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore of the district court, the notice of appeal shall be filed with the District Court.

**URCP - Rule 64c (2)–: SUPPLEMENTAL PROCEEDINGS:** The court may conduct hearings as necessary to identify property and to apply the property toward the satisfaction of the judgment or order. Witnesses may be subpoenaed to appear, testify and produce records. The court may permit discovery.

**URCP - Rule 64D: GARNISHMENT:** A writ of garnishment is available to seize property of the defendant in the possession or under the control of a person other than the defendant. (n.b. can be post judgment or after filing of claim prior to judgment)

Limits on writs of garnishment: (see URCP 64 (d) (3)) :( i) A writ of garnishment served while a previous writ of garnishment is in effect is effective upon expiration of the previous writ; otherwise, a writ of garnishment is effective upon service.

Only one writ of garnishment of earnings may be in effect at one time.

### URSCP – Rule 10: Motion to Set Aside Default Judgment

The non- appearing party may file a Motion to Set Aside the judgment. Motion must be filed within 15 days of default judgment showing a good reason (good cause) for not appearing at the trial. The requesting party may be ordered to pay the other party’s costs, such as the cost of preparing for trial.

**Rule 4-106 : Electronic Conferencing** – (1) In the judge’s discretion any hearing may be conducted using telephone or video conferencing.

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## CRIMINAL & TRAFFIC ISSUES

Pretrial Conference: Rule 13 (URCrP) – Defendant’s waiver of appearance

**Rule 4-106 : Electronic Conferencing** – (1) In the judge’s discretion any hearing may be conducted using telephone or video conferencing.

Motions: Motions requiring action by court should be submitted with (proposed) Order.\*Suppression Hearings:  
Rule 12 Motion – (d) *Motion to Suppress Evidence shall describe the evidence to be suppressed, set forth standing of the movant, and specify sufficient legal and factual grounds to give opposing party reasonable notice of the issues.* (e) *Findings & conclusions on record?*

Pleas: Forms – Rule 11 and where applicable enhancements.

\*Collateral Consequences: driver license suspension, gun restrictions, enhanced penalties, immigration

Sentencing: Justice Reinvestment Initiatives  
Misdemeanor Sentencing Guidelines

Appeals: Procedures (Attorney vs. Client)  
Remand (Attorney vs. Client)

Trials: Bench Trials / Jury Trials & Trials in Absentia

Specific Offenses: DUI\*  
Domestic Violence\*  
Drug Offenses & Paraphernalia\*  
Minor Alcohol Offenses\*  
Retail Theft\*  
Traffic Offenses\*  
CDL Issues (Masking)

Miscellaneous: Special Request – *Nunc Pro Tunc, Stipulated Recommendations*  
Diversion  
Order to Show Cause  
Plea by Affidavit - *fingerprints cards needed?*  
Conflicts – Co-Defendants – Rule 1.8(g) Rules of Professional Conduct  
Plea in Abeyance (Layton City v. Stevenson 2014 UT 37 )

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