

1 **Rule 58A. Entry of judgment; abstract of judgment.**

2 **(a) Separate document required.** Every judgment and amended judgment must be set out in a
3 separate document ordinarily titled “Judgment”—or, as appropriate, “Decree.”

4 **(b) Separate document not required.** A separate document is not required for an order disposing of
5 a post-judgment motion:

6 (b)(1) for judgment under Rule [50\(b\)](#);

7 (b)(2) to amend or make additional findings under Rule [52\(b\)](#);

8 (b)(3) for a new trial, or to alter or amend the judgment, under Rule [59](#); ~~or~~

9 (b)(4) for relief under Rule [60](#); ~~or~~

10 **(b)(5) for attorney fees under Rule 73.**

11 **(c) Preparing a judgment.**

12 **(c)(1) Preparing and serving a proposed judgment.** The prevailing party or a party directed by
13 the court must prepare and serve on the other parties a proposed judgment for review and approval
14 as to form. The proposed judgment shall be served within 14 days after the jury verdict or after the
15 court’s decision. If the prevailing party or party directed by the court fails to timely serve a proposed
16 judgment, any other party may prepare a proposed judgment and serve it on the other parties for
17 review and approval as to form.

18 **(c)(2) Effect of approval as to form.** A party’s approval as to form of a proposed judgment
19 certifies that the proposed judgment accurately reflects the verdict or the court’s decision. Approval as
20 to form does not waive objections to the substance of the judgment.

21 **(c)(3) Objecting to a proposed judgment.** A party may object to the form of the proposed
22 judgment by filing an objection within 7 days after the judgment is served.

23 **(c)(4) Filing proposed judgment.** The party preparing a proposed judgment must file it:

24 (c)(4)(A) after all other parties have approved the form of the judgment; (The party preparing
25 the proposed judgment must indicate the means by which approval was received: in person; by
26 telephone; by signature; by email; etc.)

27 (c)(4)(B) after the time to object to the form of the judgment has expired; (The party preparing
28 the proposed judgment must also file a certificate of service of the proposed judgment.) or

29 (c)(4)(C) within 7 days after a party has objected to the form of the judgment. (The party
30 preparing the proposed judgment may also file a response to the objection.)

31 **(d) Judge’s signature; judgment filed with the clerk.** Except as provided in paragraph (h) and Rule
32 [55\(b\)\(1\)](#), all judgments must be signed by the judge and filed with the clerk. The clerk must promptly
33 record all judgments in the docket.

34 **(e) Time of entry of judgment.**

35 (e)(1) If a separate document is not required, a judgment is complete and is entered when it is
36 signed by the judge and recorded in the docket.

37 (e)(2) If a separate document is required, a judgment is complete and is entered at the earlier of
38 these events:

39 (e)(2)(A) the judgment is set out in a separate document signed by the judge and recorded in
40 the docket; or

41 (e)(2)(B) 150 days have run from the clerk recording the decision, however designated, that
42 provides the basis for the entry of judgment.

43 **(f) Award of attorney fees.** A motion or claim for attorney fees does not affect the finality of a
44 judgment for any purpose, but, under Rule of Appellate Procedure 4, the time in which to file the notice of
45 appeal runs from the disposition of the motion or claim.

46 **(g) Notice of judgment.** The party preparing the judgment shall promptly serve a copy of the signed
47 judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the
48 court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not
49 affected by this requirement.

50 ~~(g)~~ **(h) Judgment after death of a party.** If a party dies after a verdict or decision upon any issue of
51 fact and before judgment, judgment may nevertheless be entered.

52 ~~(h)~~ **(i) Judgment by confession.** If a judgment by confession is authorized by statute, the party
53 seeking the judgment must file with the clerk a statement, verified by the defendant, as follows:

54 ~~(h)(1)~~ ~~(i)(1)~~ If the judgment is for money due or to become due, the statement must concisely
55 state the claim and that the specified sum is due or to become due.

56 ~~(h)(2)~~ ~~(i)(2)~~ If the judgment is for the purpose of securing the plaintiff against a contingent liability,
57 the statement must state concisely the claim and that the specified sum does not exceed the liability.

58 ~~(h)(3)~~ ~~(i)(3)~~ The statement must authorize the entry of judgment for the specified sum.

59 The clerk must sign the judgment for the specified sum.

60 ~~(i)~~ **(j) Abstract of judgment.** The clerk may abstract a judgment by a signed writing under seal of the
61 court that:

62 ~~(i)(1)~~ ~~(j)(1)~~ identifies the court, the case name, the case number, the judge or clerk that signed the
63 judgment, the date the judgment was signed, and the date the judgment was recorded in the registry
64 of actions and the registry of judgments;

65 ~~(i)(2)~~ ~~(j)(2)~~ states whether the time for appeal has passed and whether an appeal has been filed;

66 ~~(i)(3)~~ ~~(j)(3)~~ states whether the judgment has been stayed and when the stay will expire; and

67 ~~(i)(4)~~ ~~(j)(4)~~ if the language of the judgment is known to the clerk, quotes verbatim the operative
68 language of the judgment or attaches a copy of the judgment.

69 **Advisory Committee Note**

70 2015 amendments

71 The 2015 amendments to Rule 58A adopt the requirement, found in Rule 58 of the Federal Rules of
72 Civil Procedure, that a judgment be set out in a separate document. In the past, problems have arisen
73 when the district court entered a decision with dispositive language, but without the other formal elements

74 of a judgment, resulting in uncertainty about whether the decision started the time for appeals. This
75 problem was compounded by uncertainty under Rule 7 about whether the decision was the court’s final
76 ruling on the matter or whether the prevailing party was expected to prepare an order confirming the
77 decision.

78 The 2015 amendments of Rule 7, Rule 54 and Rule 58A are intended to reduce this confusion by
79 requiring “that there be a judgment set out on a separate document—distinct from any opinion or
80 memorandum—which provides the basis for the entry of judgment.” See Advisory Committee Notes to
81 1963 Amendments to Fed. R. Civ. P. 58. Courts and practitioners are encouraged to use appropriate
82 titles with separate documents intended to operate as judgments, such as “Judgment” or “Decree,” and to
83 avoid using such titles on documents that are not appealable. The parties should consider the form of
84 judgment included in the [Appendix of Forms](#). On the question of what constitutes a separate document,
85 the Committee refers courts and practitioners to existing case law interpreting Fed. R. Civ. P. 58. For
86 example, *In re Cendant Corp.*, 454 F.3d 235, 242-244 (3d Cir. 2006) offers three criteria:

- 87 1) the judgment must be set forth in a document that is independent of the court’s opinion or decision;
- 88 2) it must contain ordering clauses stating the relief to which the prevailing party is entitled, and not
89 merely refer to orders made in other documents or state that a motion has been granted; and
- 90 3) it must substantially omit recitation of facts, procedural history, and the reasons for disposing of the
91 parties’ claims.

92 While “some trivial departures” from these criteria—such as a one-sentence explanation of reasoning,
93 a single citation to authority, or a reference to a separate memorandum decision—“must be tolerated in
94 the name of common sense,” any explanation must be “very sparse.” *Kidd v. District of Columbia*, 206
95 F.3d 35, 39 (D.C. Cir. 2000).

96 The concurrent amendments to Rule 7 remove the separate document requirement formerly
97 applicable to interlocutory orders. Henceforward, the separate document requirement will apply only to
98 judgments, a change that should reduce the tendency to confuse judgments with other orders. Rule 7 has
99 also been amended to modify the process by which orders on motions are prepared. The process for
100 preparing judgments is the same.

101 Under amended Rule 7(j), a written decision, however designated, is complete—is the judge’s last
102 word on the motion—when it is signed, unless the court expressly requests a party to prepare an order
103 confirming the decision. But this should not be confused with the need to prepare a separate judgment
104 when the decision has the effect of disposing of all claims in the case. If a decision disposes of all claims
105 in the action, a separate judgment is required whether or not the court directs a party to prepare an order
106 confirming the decision.

107 ~~Rule 58A is similar to Fed. R. Civ. P. 58 in listing the instances where a separate document is not~~
108 ~~required. The state rule differs from the federal rule regarding an order for attorney fees. Fed. R. Civ. P.~~
109 ~~58 includes an order for attorney fees as one of the orders not requiring a separate document. That~~
110 ~~particular order is omitted from the Utah rule because under Utah law a judgment does not become final~~

111 ~~for purposes of appeal until the trial court determines attorney fees. See *ProMax Development*~~
112 ~~*Corporation v. Raile*, 2000 UT 4, 998 P.2d 254. See also Utah Rule of Appellate Procedure 4, which~~
113 ~~states that the time in which to appeal post-trial motions is from the disposition of the motion.~~

114 State Rule 58A is ~~also~~ similar to Fed. R. Civ. P. 58 in determining the time of entry of judgment when
115 a separate document is required but not prepared. This situation involves the “hanging appeals” problem
116 that the Supreme Court asked this Committee to address in *Central Utah Water Conservancy District v.*
117 *King*, 2013 UT 13, ¶17. Under the 2015 amendments, if a separate document is required but is not
118 prepared, judgment is deemed to have been entered 150 days from the date the decision—or the order
119 confirming the decision—was entered on the docket.

120 2016 amendments

121 The 2016 amendments in paragraphs (b) and (f) are part of a coordinated effort with the Advisory
122 Committee on the Rules of Appellate Procedure to change the effect of a motion for attorney fees on the
123 appealability of a judgment. The combined amendments of this rule and Rule of Appellate Procedure 4
124 effectively overturn *ProMax Development Corp. v. Raile*, 2000 UT 4, 998 P.2d 254 and *Meadowbrook,*
125 *LLC v. Flower*, 959 P.2d 115 (Utah 1998). Paragraph (f) also addresses any doubts about the
126 enforceability of a judgment while a motion for attorney fees is pending.

127 Under *ProMax* and *Meadowbrook* a judgment was not final until the claim for attorney fees had been
128 resolved. An appeal filed before a claim for attorney fees had been resolved was premature and would be
129 dismissed. Under the 2016 amendments, the time to appeal runs from the order disposing of a timely
130 motion for attorney fees, just as it does timely motions under Rules 50, 52 and 59. The 2016 amendments
131 to appellate Rule 4(b) also add a motion under Rule 60(b), but only if the motion is filed within 28 days
132 after the judgment.

133 If a notice of appeal is filed before the order resolving the timely motion, the appeal is not dismissed;
134 it is treated as filed on the day the order ultimately is entered, although the party must file an amended
135 notice of appeal to appeal from the order disposing of the motion.

136 Although this change overturns *ProMax* and *Meadowbrook*, it is not the same as the federal rule.
137 Under Federal Rule of Civil Procedure 58(e):

138 Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in
139 order to tax costs or award fees. But if a timely motion for attorney's fees is made under
140 Rule 54(d)(2), the court may act before a notice of appeal has been filed and become
141 effective to order that the motion have the same effect under Federal Rule of Appellate
142 Procedure 4 (a)(4) as a timely motion under Rule 59.

143 In other words, a motion for attorney fees extends the time to appeal, but only if the trial court judge
144 rules that it does. In the 2016 amendment of the state rules, a timely motion for attorney fees
145 automatically has that effect.

146 Although the 2016 amendments change a policy of long standing in the Utah state courts, the
147 amendments will help to protect the appellate rights of parties and avoid the cost of premature appeals.