

78B-10a-108 Trial de novo.

- (1)
 - (a) Upon filing a notice requesting a trial de novo in accordance with Subsection 78B-10a-107(2):
 - (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;
 - (ii) the additional discovery time under Subsection (1)(a)(i) shall run from the notice of the request for a trial de novo; and
 - (iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.
 - (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed in accordance with Subsection 78B-10a-107(2)(a)(i).
- (2)
 - (a) If the plaintiff, as the moving party in a trial de novo requested under Subsection 78B-10a-107(2), does not obtain a verdict that is at least \$5,000 and 30% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.
 - (b) Except as provided in Subsection (2)(c), the costs under Subsection (2)(a) shall include:
 - (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
 - (ii) the costs of expert witnesses and depositions.
 - (c) An award of costs under this Subsection (2) may not exceed \$6,000.
- (3)
 - (a) If a defendant, as the moving party in a trial de novo requested in accordance with Subsection 78B-10a-107(2), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.
 - (b) Except as provided in Subsection (3)(c), the costs under Subsection (3)(a) shall include:
 - (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
 - (ii) the costs of expert witnesses and depositions.
 - (c) An award of costs in accordance with this Subsection (3) may not exceed \$6,000.
- (4) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (2) and (3), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:
 - (a) was not fully disclosed in writing prior to the arbitration proceeding; or
 - (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.
- (5) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.
- (6)
 - (a) If a defendant requests a trial de novo under Subsection 78B-10a-107(2), the total verdict at trial may not exceed \$15,000 above any available limits of insurance coverage and the total verdict may not exceed \$65,000.
 - (b) If a plaintiff requests a trial de novo under Subsection 78B-10a-107(2), the verdict at trial may not exceed \$50,000.

Enacted by Chapter 197, 2011 General Session