

DIVORCE IN UTAH | ATTORNEY FEES AND COSTS

When going through a divorce there are a lot of people that worry about getting a good [Divorce Lawyer](#) and being able to afford them. In Utah there are ways to get your attorney fees granted by the court. It does not matter whether you are the one that files the divorce or if you are the Respondent in the divorce, you may be able to get your attorney fees. This can also apply to divorce modifications. If a party files for a divorce modification and prevails they may also be able to get their attorney fees. Below is some case law that outlines some decisions made in Utah concerning attorney fees in divorce or divorce modifications.

"Ms. Sigg claims the trial court erred in awarding to Mr. Sigg \$14,000 in attorney fees expended in connection with the petition for modification; \$1,000 spent in defending against the telephone harassment charge; and \$3,000 in expert witness fees spent on the custody evaluation performed by Dr. Stewart.

Ms. Sigg contends the award of those fees is without statutory basis. Under section 30-3-5(8) of the Utah Code, a court may award attorney fees to the prevailing party in an action alleging substantial noncompliance with a visitation order. Utah Code Ann. § 30-3-5(8) (1995). She claims that Mr. Sigg has received all the visitation provided for in the divorce decree and, thus, he should not have been awarded attorney fees under section 30-3-5(8). However, because we have concluded that Ms. Sigg did not comply with the visitation order contained in her decree, we find no abuse of discretion by the court and affirm the award of attorney fees to Mr. Sigg, the prevailing party.

Ms. Sigg also attacks the award of \$1,000 to Mr. Sigg representing his expenses in defending against the telephone harassment charge. These costs have no direct relationship to the costs of pursuing the petition for modification of the divorce decree. The award, for that reason, is without basis in law and an abuse of discretion. Accordingly, we reverse.

Finally, Ms. Sigg attacks the award of the expert witness fees for the testimony of Dr. Stewart, the court-appointed custody evaluator. However, section 30-3-5(8) also allows the award of "actual attorney fees and court costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation." Utah Code Ann. § 30-3-5(8) (1995). Because Mr. Sigg is the prevailing party, and because Dr. Stewart's custody evaluation was a court cost incurred as a result of Ms. Sigg's failure to provide or permit visitation, we find no abuse of discretion in awarding the expert witness fees to Mr. Sigg." *Sigg v. Sigg*, 905 P.2d 908, 918 (Utah Ct. App. 1995)

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