

1 **Rule 4. Appeal as of right: when taken.**

2 (a) Appeal from final judgment and order. In a case in which an appeal is permitted
3 as a matter of right from the trial court to the appellate court, the notice of appeal
4 required by Rule 3 shall be filed with the clerk of the trial court within 30 days after the
5 date of entry of the judgment or order appealed from. However, when a judgment or
6 order is entered in a statutory forcible entry or unlawful detainer action, the notice of
7 appeal required by Rule 3 shall be filed with the clerk of the trial court within 10 days
8 after the date of entry of the judgment or order appealed from.

9 (b) Time for appeal extended by certain motions.

10 (b)(1) If a party timely files in the trial court any of the following motions, the time for
11 all parties to appeal from the judgment runs from the entry of the order disposing of the
12 motion:

13 (b)(1)(A) A motion for judgment under Rule 50(b) of the Utah Rules of Civil
14 Procedure;

15 (b)(1)(B) A motion to amend or make additional findings of fact, whether or not an
16 alteration of the judgment would be required if the motion is granted, under Rule 52(b)
17 of the Utah Rules of Civil Procedure;

18 (b)(1)(C) A motion to alter or amend the judgment under Rule 59 of the Utah Rules
19 of Civil Procedure;

20 (b)(1)(D) A motion for a new trial under Rule 59 of the Utah Rules of Civil Procedure;
21 or

22 (b)(1)(E) A motion for a new trial under Rule 24 of the Utah Rules of Criminal
23 Procedure.

24 (b)(2) A notice of appeal filed after announcement or entry of judgment, but before
25 entry of an order disposing of any motion listed in Rule 4(b), shall be treated as filed
26 after entry of the order and on the day thereof, except that such a notice of appeal is
27 effective to appeal only from the underlying judgment. To appeal from a final order
28 disposing of any motion listed in Rule 4(b), a party must file a notice of appeal or an
29 amended notice of appeal within the prescribed time measured from the entry of the
30 order.

31 (c) Filing prior to entry of judgment or order. A notice of appeal filed after the
32 announcement of a decision, judgment, or order but before entry of the judgment or
33 order shall be treated as filed after such entry and on the day thereof.

34 (d) Additional or cross-appeal. If a timely notice of appeal is filed by a party, any
35 other party may file a notice of appeal within 14 days after the date on which the first
36 notice of appeal is docketed, or within the time otherwise prescribed by paragraphs (a)
37 and (b) of this rule, whichever period last expires.

38 (e) Extension of time to appeal. The trial court, upon a showing of excusable neglect
39 or good cause, may extend the time for filing a notice of appeal upon motion filed not
40 later than 30 days after the expiration of the time prescribed by paragraphs (a) and (b)
41 of this rule. A motion filed before expiration of the prescribed time may be ex parte
42 unless the trial court otherwise requires. Notice of a motion filed after expiration of the
43 prescribed time shall be given to the other parties in accordance with the rules of
44 practice of the trial court. No extension shall exceed 30 days past the prescribed time or
45 10 days from the date of entry of the order granting the motion, whichever occurs later.

46 (f) Motion to reinstate period for filing a direct appeal in criminal cases. Upon a
47 showing that a criminal defendant was deprived of the right to appeal, the trial court
48 shall reinstate the thirty-day period for filing a direct appeal. A defendant seeking such
49 reinstatement shall file a written motion in the sentencing court and serve the
50 prosecuting entity. If the defendant is not represented and is indigent, the court shall
51 appoint counsel. The prosecutor shall have 30 days after service of the motion to file a
52 written response. If the prosecutor opposes the motion, the trial court shall set a hearing
53 at which the parties may present evidence. If the trial court finds by a preponderance of
54 the evidence that the defendant has demonstrated that the defendant was deprived of
55 the right to appeal, it shall enter an order reinstating the time for appeal. The
56 defendant's notice of appeal must be filed with the clerk of the trial court within 30 days
57 after the date of entry of the order.

58 (g) Motion to reinstate period for filing a direct appeal in civil cases.

59 (g)(1) The trial court shall reinstate the thirty-day period for filing a direct appeal if the
60 trial court finds by a preponderance of the evidence that:

61 (g)(1)(A) The party seeking to appeal lacked actual notice of the entry of judgment at
62 a time that would have allowed the party to file a timely motion under paragraph (e) of
63 this rule;

64 (g)(1)(B) The party seeking to appeal exercised reasonable diligence in monitoring
65 the proceedings;

66 (g)(1)(C) The party, if any, responsible for serving the judgment under Rule 58A(d)
67 of the Utah Rules of Civil Procedure did not promptly serve a copy of the signed
68 judgment on the party seeking to appeal.

69 (g)(2) A party seeking such reinstatement shall file a written motion in the trial court
70 within one year from the entry of judgment. The party shall comply with Rule 7 of the
71 Utah Rules of Civil Procedure and shall serve each of the parties in accordance with
72 Rule 5 of the Utah Rules of Civil Procedure.

73 (g)(3) If the trial court enters an order reinstating the time for filing a direct appeal, a
74 notice of appeal must be filed within 30 days after the date of entry of the order.

75 **Advisory Committee Note**

76 Subsection (f) was adopted to implement the holding and procedure outlined in
77 Manning v. State, 2005 UT 61, 122 P.3d 628.