

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

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

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

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

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

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

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

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

25 (b)(2) A notice of appeal filed after announcement or entry of judgment, but
26 before entry of an order disposing of any motion listed in Rule 4(b), shall be
27 treated as filed after entry of the order and on the day thereof, except that

28 such a notice of appeal is effective to appeal only from the underlying
29 judgment. To appeal from a final order disposing of any motion listed in Rule
30 4(b), a party must file a notice of appeal or an amended notice of appeal
31 within the prescribed time measured from the entry of the order.

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

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

41 (e) Motion for Extension of time to appeal.

42 (e)(1) The trial court, upon a showing of good cause, may extend the time
43 for filing a notice of appeal upon motion filed before the expiration of the time
44 prescribed by paragraphs (a) and (b) of this rule. Responses to such motions
45 for an extension of time are disfavored and the court may rule at any time
46 after the filing of the motion. No extension shall exceed 30 days beyond the
47 prescribed time or 14 days beyond the date of entry of the order granting the
48 motion, whichever occurs later.

49 (e)(2) The trial court, upon a showing of good cause or excusable neglect
50 or good cause, may extend the time for filing a notice of appeal upon motion
51 filed not later than 30 days after the expiration of the time prescribed by
52 paragraphs (a) and (b) of this rule. A motion filed before expiration of the
53 prescribed time may be ex parte unless the trial court otherwise requires.
54 Notice of a motion filed after expiration of the prescribed time shall be given to

55 ~~the other parties in accordance with the rules of practice of the trial court. The~~
56 ~~court may rule at any time after the filing of the motion. That a movant did not~~
57 ~~file a notice of appeal to which paragraph (c) would apply is not relevant to the~~
58 ~~determination of good cause or excusable neglect.~~ No extension shall exceed
59 30 days ~~past~~ beyond the prescribed time or ~~140~~ days ~~from~~ beyond the date of
60 entry of the order granting the motion, whichever occurs later.

61 (f) Motion to reinstate period for filing a direct appeal in criminal cases.
62 Upon a showing that a criminal defendant was deprived of the right to appeal,
63 the trial court shall reinstate the thirty-day period for filing a direct appeal. A
64 defendant seeking such reinstatement shall file a written motion in the
65 sentencing court and serve the prosecuting entity. If the defendant is not
66 represented and is indigent, the court shall appoint counsel. The prosecutor
67 shall have 30 days after service of the motion to file a written response. If the
68 prosecutor opposes the motion, the trial court shall set a hearing at which the
69 parties may present evidence. If the trial court finds by a preponderance of the
70 evidence that the defendant has demonstrated that the defendant was
71 deprived of the right to appeal, it shall enter an order reinstating the time for
72 appeal. The defendant's notice of appeal must be filed with the clerk of the
73 trial court within 30 days after the date of entry of the order.

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

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

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

80 (g)(1)(B) The party seeking to appeal exercised reasonable diligence in
81 monitoring the proceedings; and

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

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

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

92 **Advisory Committee Note**

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