

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

8 **(b) Time for appeal extended by certain motions.**

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

11 (b)(1)(A) A motion for judgment under Rule [50\(b\)](#) of the Utah Rules of Civil Procedure;

12 (b)(1)(B) A motion to amend or make additional findings of fact, whether or not an alteration of the  
13 judgment would be required if the motion is granted, under Rule [52\(b\)](#) of the Utah Rules of Civil  
14 Procedure;

15 (b)(1)(C) A motion to alter or amend the judgment under Rule [59](#) of the Utah Rules of Civil  
16 Procedure;

17 (b)(1)(D) A motion for a new trial under Rule [59](#) of the Utah Rules of Civil Procedure; or

18 (b)(1)(E) A motion for relief under Rule 60 of the Utah Rules of Civil Procedure if the motion is  
19 filed no later than 28 days after the judgment is entered; or

20 (b)(1)(F) A motion for a new trial under Rule [24](#) of the Utah Rules of Criminal Procedure.

21 (b)(2) If a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil  
22 Procedure or a claim for costs under Rule 54 of the Utah Rules of Civil Procedure and if the trial court  
23 extends the time to appeal under Rule 54, the time for all parties to appeal from the judgment runs from  
24 the entry of the order disposing of the motion or claim.

25 (b)(3) A notice of appeal filed after announcement or entry of judgment, but before entry of an order  
26 disposing of any motion listed in ~~Rule 4~~paragraph (b), shall be treated as filed after entry of the order and  
27 on the day thereof, except that such a notice of appeal is effective to appeal only from the underlying  
28 judgment. To appeal from a final order disposing of any motion listed in ~~Rule 4~~paragraph (b), a party must  
29 file a notice of appeal or an amended notice of appeal within the prescribed time measured from the entry  
30 of the order.

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

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

38 **(e) Motion for extension of time.**

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

44 (e)(2) The trial court, upon a showing of good cause or excusable neglect, may extend the time  
45 for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time  
46 prescribed by paragraphs (a) and (b) of this rule. The court may rule at any time after the filing of the  
47 motion. That a movant did not file a notice of appeal to which paragraph (c) would apply is not relevant to  
48 the determination of good cause or excusable neglect. No extension shall exceed 30 days beyond the  
49 prescribed time or 14 days beyond the date of entry of the order granting the motion, whichever occurs  
50 later.

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

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

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

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

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

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

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

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

76 **Advisory Committee Note**

**Rule 4.**

**Draft: November 5, 2015**

77 Paragraph (f) was adopted to implement the holding and procedure outlined in Manning v. State,  
78 2005 UT 61, 122 P.3d 628.  
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