

Rule 4. Appeal as of right: when taken.

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

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

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

- (A) A motion for judgment under Rule [50\(b\)](#) of the Utah Rules of Civil Procedure;
- (B) A motion to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted, under Rule [52\(b\)](#) of the Utah Rules of Civil Procedure;
- (C) A motion to alter or amend the judgment under Rule [59](#) of the Utah Rules of Civil Procedure;
- (D) A motion for a new trial under Rule [59](#) of the Utah Rules of Civil Procedure;
- (E) A motion for relief under Rule [60\(b\)](#) of the Utah Rules of Civil Procedure if the motion is filed no later than 28 days after the judgment is entered;
- (F) A motion or claim for attorney fees under Rule [73](#) of the Utah Rules of Civil Procedure; or
- (G) A motion for a new trial under Rule [24](#) of the Utah Rules of Criminal Procedure.

(2) A notice of appeal filed after announcement or entry of judgment, but before entry of an order disposing of any motion listed in paragraph (b), shall be treated as filed after entry of the order and on the day thereof, except that such a notice of appeal is effective

to appeal only from the underlying judgment. To appeal from a final order disposing of any motion listed in paragraph (b), a party must file a notice of appeal or an amended notice of appeal within the prescribed time measured from the entry of the order.

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

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

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

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

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

(f) **Motion to reinstate period for filing a direct appeal in criminal cases.** Upon a showing that a criminal defendant was deprived of the right to appeal, the trial court shall reinstate the thirty-day period for filing a direct appeal. A defendant seeking such reinstatement shall file a written motion in the sentencing court and serve the prosecuting entity. If the defendant is not

represented and is indigent, the court shall appoint counsel. The prosecutor shall have 30 days after service of the motion to file a written response. If the prosecutor opposes the motion, the trial court shall set a hearing at which the parties may present evidence. If the trial court finds by a preponderance of the evidence that the defendant has demonstrated that the defendant was deprived of the right to appeal, it shall enter an order reinstating the time for appeal. The defendant's notice of appeal must be filed with the clerk of the trial court within 30 days after the date of entry of the order.

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

- (1) The trial court shall reinstate the thirty-day period for filing a direct appeal if the trial court finds by a preponderance of the evidence that:
 - (A) The party seeking to appeal lacked actual notice of the entry of judgment at a time that would have allowed the party to file a timely motion under paragraph (e) of this rule;
 - (B) The party seeking to appeal exercised reasonable diligence in monitoring the proceedings; and
 - (C) The party, if any, responsible for serving the judgment under Rule [58A\(d\)](#) of the Utah Rules of Civil Procedure did not promptly serve a copy of the signed judgment on the party seeking to appeal.
- (2) A party seeking such reinstatement shall file a written motion in the trial court within one year from the entry of judgment. The party shall comply with Rule [7](#) of the Utah Rules of Civil Procedure and shall serve each of the parties in accordance with Rule [5](#) of the Utah Rules of Civil Procedure.
- (3) If the trial court enters an order reinstating the time for filing a direct appeal, a notice of appeal must be filed within 30 days after the date of entry of the order.

Advisory Committee Note

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