

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
3 a matter of right from the trial court to the appellate court, the notice of appeal required
4 by Rule [3](#) shall be filed with the clerk of the trial court within 30 days after the date of
5 entry of the judgment or order appealed from. If the trial court enters a judgment or
6 order on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the
7 first day following the trial court's entry that is not a Saturday, Sunday, or legal holiday.

8 However, when a judgment or order is entered in a statutory forcible entry or unlawful
9 detainer action, the notice of appeal required by Rule [3](#) shall be filed with the clerk of
10 the trial court within 10 days after the date of entry of the judgment or order appealed
11 from.

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

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

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

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

20 (C) A motion to alter or amend the judgment under Rule [59](#) of the Utah
21 Rules of Civil Procedure;

22 (D) A motion for a new trial under Rule [59](#) of the Utah Rules of Civil
23 Procedure;

24 (E) A motion for relief under Rule [60\(b\)](#) of the Utah Rules of Civil
25 Procedure if the motion is filed no later than 28 days after the judgment is
26 entered;

27 (F) A motion or claim for attorney fees under Rule [73](#) of the Utah Rules of
28 Civil Procedure; or

29 (G) A motion for a new trial under Rule [24](#) of the Utah Rules of Criminal
30 Procedure.

31 (2) A notice of appeal filed after announcement or entry of judgment, but before
32 entry of an order disposing of any motion listed in paragraph (b), shall be treated
33 as filed after entry of the order and on the day thereof, except that such a notice
34 of appeal is effective to appeal only from the underlying judgment. To appeal
35 from a final order disposing of any motion listed in paragraph (b), a party must
36 file a notice of appeal or an amended notice of appeal within the prescribed time
37 measured from the entry of the order.

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

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

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

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

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

61 (f) Motion to reinstate period for filing a direct appeal in criminal cases. ~~Upon a~~
62 ~~showing that~~

63 (1) The trial court must reinstate the thirty-day period for filing a direct appeal if
64 ~~no timely appeal is filed in~~ a criminal case, if a defendant demonstrates by a
65 preponderance of the evidence that the defendant was deprived of the right to
66 appeal through no fault of the defendant. ~~the trial court shall reinstate the thirty-~~
67 ~~day period for filing a direct appeal. A defendant seeking such reinstatement~~
68 ~~shall~~ may file a written motion in the sentencing court and serve the prosecuting
69 ~~entity. trial court to reinstate the time to appeal.~~

70 (2) The motion must be filed within one year, or within a reasonable time,
71 whichever is later, from the day on which the defendant personally knew, or
72 should have known in the exercise of reasonable diligence, of evidentiary facts
73 forming the basis of the claim that the defendant was deprived of the right to
74 appeal.

75 (23) If the defendant is not represented by counsel and is indigent, the trial court
76 ~~shall~~ must appoint counsel.

77 (34) The motion must be served on the prosecuting entity. The prosecutor ~~shall~~
78 ~~have 30 days after service of the motion to~~ may file a ~~written~~ response. ~~If the~~
79 ~~prosecutor opposes~~ to the motion within 28 days after being served.

80 (45) If the motion to reinstate the time to appeal is opposed, the trial court
81 ~~shall~~must set a hearing at which the parties may present evidence.

82 ~~-(6)(a) If the prosecutor opposes the motion on the ground that the defendant~~
83 ~~filed it beyond the time limit in paragraph (f)(2), the prosecutor must prove, by a~~
84 ~~preponderance of the evidence, that the defendant's delay was unreasonable.~~
85 ~~The court can deny the motion as untimely only if the court finds that the~~
86 ~~prosecutor has carried this burden.~~

87 ~~(6) The defendant must show that the defendant was deprived of the right to~~
88 ~~appeal through no fault of the defendant.~~

89 ~~(7) If the trial court finds by a preponderance of the evidence that the defendant~~
90 ~~has demonstrated that the defendant was~~been ~~deprived of the right to appeal, it~~
91 ~~shall~~the court must ~~enter an order reinstating the time for~~right to appeal. Tenters
92 an order reinstating the time for filing a direct appeal, the defendant's notice of
93 appeal must be filed with the clerk of the trial court within 30 days after the date
94 the order is entered~~of entry of the order.~~

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

96 (1) The trial court ~~shall~~must reinstate the thirty-day period for filing a direct
97 appeal if the trial court finds by a preponderance of the evidence that:

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

101 (B) The party seeking to appeal exercised reasonable diligence in
102 monitoring the proceedings; and

103 (C) The party, if any, responsible for serving the judgment under Rule
104 58A(d) of the Utah Rules of Civil Procedure did not promptly serve a copy
105 of the signed judgment on the party seeking to appeal.

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

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