

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

2 (a) **Appeal as of right.** Except as provided in paragraph (a)(1) or (a)(2), in a case in which  
3 an appeal is permitted as a matter of right from the trial court to the appellate court, the  
4 notice of appeal required by Rule [3](#) must be filed with the clerk of the trial court within  
5 30 days after the date of entry of the judgment or order appealed from. If the trial court  
6 enters a judgment or order on a Saturday, Sunday, or legal holiday, the date of entry will  
7 be deemed to be the first day following the trial court's entry that is not a Saturday,  
8 Sunday, or legal holiday.

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

13 (2) When an order is entered denying, in whole or in part, a motion to dismiss under  
14 Utah Code section [78B-25-103](#), the notice of appeal must be filed with the clerk of the  
15 trial court within 21 days after the date of entry of the order appealed from.

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

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

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

20 (B) A motion to amend or make additional findings of fact, whether or not an  
21 alteration of the judgment would be required if the motion is granted, under Rule  
22 [52\(b\)](#) of the Utah Rules of Civil Procedure;

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

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

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

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

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

32 (2) A notice of appeal filed after announcement or entry of judgment, but before entry  
33 of an order disposing of any motion listed in paragraph (b), ~~shall~~will be treated as  
34 filed after entry of the order and on the day thereof, except that such a notice of appeal  
35 is effective to appeal only from the underlying judgment. To appeal from a final order  
36 disposing of any motion listed in paragraph (b), a party must file a notice of appeal or  
37 an amended notice of appeal within the prescribed time measured from the entry of  
38 the order. If multiple motions in paragraph (b) are timely filed and the court decides  
39 any motion by separate order, the time to file a notice of appeal runs from the entry  
40 of the last order.

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

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

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

49 (1) The trial court, upon a showing of good cause, may extend the time for filing a  
50 notice of appeal upon motion filed before the expiration of the time prescribed by  
51 paragraphs (a) and (b) of this rule. Responses to such motions for an extension of time  
52 are disfavored and the court may rule at any time after the filing of the motion. No

53 extension ~~shall~~can exceed 30 days beyond the prescribed time or 14 days beyond the  
54 date of entry of the order granting the motion, whichever occurs later.

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

63 ~~(f)-~~ **Motion to reinstate period for filing a direct appeal in criminal cases.** ~~Upon a~~  
64 ~~showing that~~

65 (1) The trial court will~~must~~ reinstate the 30~~thirty-day~~ period for filing a direct appeal  
66 If no timely appeal is filed in a criminal case, if a defendant demonstrates by a  
67 preponderance of the evidence that the defendant was deprived of the right to appeal  
68 through no fault of the defendant,~~the trial court shall reinstate the thirty-day period~~  
69 ~~for filing a direct appeal. A defendant seeking such reinstatement shall~~ may ~~file a~~  
70 ~~written motion in the sentencing court and serve the prosecuting entity. trial court to~~  
71 ~~reinstate the time to appeal.~~

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

76 (A) The motion must state:

77 (i) the date the defendant learned that the defendant was denied the right to an  
78 appeal.~~'s attorney had not pursued an appeal; and~~

79 (ii) how the defendant learned that the defendant was denied the right to 's  
80 attorney had not pursued an appeal, including all efforts the defendant made  
81 to learn whether his attorney had pursued an appeal.

82 (B) If the motion is filed more than one year after the defendant learned that the  
83 defendant's attorney had not pursued was denied the right to an appeal, the  
84 defendant must allege all of the grounds that support the allegation that the delay  
85 in filing the motion was reasonable.

86 (23) If the defendant is not represented by counsel and is indigent, the trial court  
87 shall will appoint counsel.

88 (34) The motion must be served on the prosecuting entity. The prosecutor shall have  
89 30 days after service of the motion to may file a written response. If the prosecutor  
90 opposes to the motion within 28 days after being served.

91 (45) If the motion to reinstate the time to appeal is opposed, the trial court shall will  
92 set a hearing at which the parties may present evidence.

93 (6)(a) If the prosecutor opposes the motion on the ground that the defendant filed it  
94 beyond the time limit in paragraph (f)(2), the prosecutor must prove, by a  
95 preponderance of the evidence, that the defendant's delay was unreasonable. The  
96 court may can deny the motion as untimely only if the court finds that the prosecutor  
97 has carried this burden.

98 (6) The defendant must show that the defendant was deprived of the right to appeal  
99 through no fault of the defendant.

100 (7) If the trial court finds by a preponderance of the evidence that the defendant has  
101 demonstrated that the defendant was been deprived of the right to appeal, it shall the  
102 court must enter an order reinstating the time for right to appeal. T enters an order  
103 reinstating the time for filing a direct appeal, the defendant's notice of appeal must  
104 be filed with the clerk of the trial court within 30 days after the date the order is  
105 entered of entry of the order.

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

107 (1) The trial court ~~shall~~will reinstate the ~~thirty-day~~30 period for filing a direct appeal  
108 if the trial court finds by a preponderance of the evidence that:

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

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

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

117 (2) A party seeking such reinstatement ~~shall~~must file a written motion in the trial  
118 court within one year from the entry of judgment. The party ~~shall~~must comply with  
119 Rule 7 of the Utah Rules of Civil Procedure and ~~shall~~must serve each of the parties in  
120 accordance with Rule 5 of the Utah Rules of Civil Procedure.

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

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