

3 Pattern Discovery Premises Liability § 30:14

Pattern Discovery: Premises Liability Third Edition | August 2020 Update
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Part 7. Trial

Chapter 30. Post-Trial Activities

§ 30:14. Appeal of right after judgment

[Correlation Table](#) | [References](#)

1. In federal actions, a party has the right to **appeal** any final judgment to the circuit court of **appeals**.
2. The right to **appeal** is guaranteed by 28 U.S.C.A. § 1291. See also [Fed. R. App. P. 3](#) and [4](#).
3. The judgment must be final, meaning that a judgment has been entered and no post-trial motion that undermines finality is pending.
4. A notice of **appeal** must be filed with the district court clerk within thirty days (sixty where the federal government, agency, or officer is a party). [Fed. R. App. P. 4\(a\)](#).
5. Entry of judgment or an order occurs when the procedures in [Fed. R. Civ. P. 58](#) and [79\(a\)](#) are complete.
6. If the notice is filed after the judge's decision is announced but before entry of the judgment, it is deemed to be filed on the date of entry,
 - (a) except that a notice filed before decision of post-trial motions under [Rules 50\(b\)](#), [52\(b\)](#) or [59](#) has no effect,
 - (b) in those instances, a new notice must be re-filed in a timely fashion after the decision,
 - (c) no additional appellate fees are required, however.
7. Any other party may file a notice of a cross-**appeal** within fourteen days of the filing of the first notice, or within the thirty/sixty-day limit, whichever is longer.
8. A party may seek a thirty-day extension of time to file the notice of **appeal**, [Fed. R. App. P. 4\(a\)\(5\)](#):
 - (a) the party must show excusable neglect or good cause for the extension,
 - (b) this request must be filed within thirty days after the thirty/sixty-day limit expires under [Rule 4\(a\)\(1\)](#),
 - (c) if filed within the original thirty/sixty-day limit, the request may be granted ex parte or the court may require a response,
 - (d) notice must be given to all parties if the request comes after the original deadline,
 - (e) the extension may not exceed thirty days or ten days after entry of the order granting the extension, whichever is later.
9. There are some cases that are directly reviewable in the Supreme Court and over which the courts of **appeals** do not have jurisdiction.

10. Further review in the Supreme Court is generally not automatic, see the Supreme Court's Rules.
11. A frivolous **appeal** may result in sanctions to the **appealing** attorney or party.
12. Once the notice of **appeal** is filed, follow the procedures required by the Federal Rules of Appellate Procedure, the rules of the appellate court, and all communications from that court.

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