

JUDGMENTS OF DISTRICT COURTS

Rule 4

is taken in identical fashion to any other appeal from a district court judgment.

division (b). A joint appeal is authorized only when more persons may appeal from a single judgment or

A joint appeal is treated as a single appeal and the appellants file a single brief. Under existing Rule 3(b) s decide whether to join their appeals. They may do so ng a joint notice of appeal or by joining their appeals filing separate notices of appeal.

consolidated appeals the separate appeals do not merge ne. The parties do not proceed as a single appellant. r existing Rule 3(b) it is unclear whether appeals may asolidated without court order if the parties stipulate to litation. The language resolves that ambiguity by re- g court action.

language also requires court action to join appeals separate notices of appeal have been filed.

division (d). Paragraph (d)(2) has been amended to re that when an inmate files a notice of appeal by iting the notice in the institution's internal mail system, clerk must note the docketing date—rather than the t date—on the notice of appeal before serving copies of is change conforms to a change in Rule 4(c). Rule 4(c) is ded to provide that when an inmate files the first notice ppeal in a civil case by depositing the notice in an ution's internal mail system, the time for filing a cross- al runs from the date the district court docket the te's notice of appeal. Existing Rule 4(c) says that in such e the time for filing a cross-appeal runs from the date district court receives the inmate's notice of appeal. A may "receive" a paper when its mail is delivered to it if the mail is not processed for a day or two, making the of receipt uncertain. "Docketing" is an easily identified t. The change is made to eliminate the uncertainty.

le 3.1. Abrogated Apr. 24, 1998, eff. Dec. 1, 1998]

ADVISORY COMMITTEE NOTES

1998 Amendments

ie Federal Courts Improvement Act of 1996, Pub.L. No. 317, repealed paragraphs (4) and (5) of 28 U.S.C. 6(c). That statutory change means that when parties ent to trial before a magistrate judge, appeal lies direct- und as a matter of right, to the court of appeals under 6(c)(3). The parties may not choose to appeal first to a ct judge and thereafter seek discretionary review in the t of appeals.

s a result of the statutory amendments, subdivision (a) of e 3.1 is no longer necessary. Since Rule 3.1 existed narily because of the provisions in subdivision (a), subdivi- (b) has been moved to Rule 3(a)(3) and Rule 3.1 has n abrogated.

HISTORICAL NOTES

he abrogated rule provided that: "When the parties sent to a trial before a magistrate judge under 28 U.S.C. 36(c)(1), any appeal from the judgment must be heard by court of appeals in accordance with 28 U.S.C. § 636(c)(3), ess the parties consent to an appeal on the record to a rict judge and thereafter, by petition only, to the court of eals, in accordance with 28 U.S.C. § 636(c)(4). An appeal

under 28 U.S.C. § 636(c)(3) must be taken in identical fash- ion as an appeal from any other judgment of the district court."

Rule 4. Appeal as of Right—When Taken

(a) Appeal in a Civil Case.

(1) Time for Filing a Notice of Appeal.

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after the judgment or order appealed from is entered.

(B) When the United States or its officer or agency is a party, the notice of appeal may be filed by any party within 60 days after the judgment or order appealed from is entered.

(C) An appeal from an order granting or deny- ing an application for a writ of error coram nobis is an appeal in a civil case for purposes of Rule 4(a).

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.

(3) Multiple Appeals. If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise pre- scribed by this Rule 4(a), whichever period ends later.

(4) Effect of a Motion on a Notice of Appeal.

(A) If a party timely files in the district court any of the following motions under the Federal Rules of Civil Procedure, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining mo- tion:

- (i) for judgment under Rule 50(b);
- (ii) to amend or make additional factual find- ings under Rule 52(b), whether or not granting the motion would alter the judgment;
- (iii) for attorney's fees under Rule 54 if the district court extends the time to appeal under Rule 58;
- (iv) to alter or amend the judgment under Rule 59;
- (v) for a new trial under Rule 59; or
- (vi) for relief under Rule 60 if the motion is filed no later than 10 days after the judgment is entered.

(B)(i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a judgment or order, in whole or in part, when