

1 **Chapter 6**

2 **Rules of Appellate Procedure**

3 **Division I**

4 Case Initiation: Civil and Criminal; Parties and Attorneys; Protected  
5 Information; and Confidential Materials

6 **Rule 6.101 Time for appealing final orders and judgments appealable as a**  
7 **matter of right.**

8 **6.101(1)** *Time for filing a notice of appeal from final orders and judgments.*

9 *a. Termination-of-parental-rights and child-in-need-of-assistance cases under*  
10 *Iowa Code chapter 232.* A notice of appeal from a final order or judgment  
11 entered in Iowa Code chapter 232 termination-of-parental-rights or child-in-  
12 need-of-assistance proceedings must be filed within 15 days after the filing of  
13 the order or judgment. However, if a motion is timely filed in good faith under  
14 Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal must be  
15 filed within 15 days after the filing of the ruling on such motion.

16 *b. All other cases.* A notice of appeal must be filed within 30 days after the  
17 filing of the final order or judgment. However, if a motion is timely filed in  
18 under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal  
19 must be filed within 30 days after the filing of the ruling on such motion.

20 *c. Timely filing of motion defined.* For purposes of subparts *a* and *b* above, a  
21 motion is considered timely if it has been filed by the applicable deadline and  
22 asks the court to reconsider, enlarge, or amend its order, ruling, judgment, or  
23 decree. Whether a motion is proper or not does not affect its timeliness.  
24 Provided, however, that a motion will not be considered timely if the same party  
25 has previously filed a motion to reconsider, enlarge, or amend the court's order,  
26 ruling, judgment, or decree, unless the court has modified its order, ruling,  
27 judgment, or decree and the subsequent motion is directed only at the  
28 modification.

29 *d. Exception for final orders on partial dispositions.* A final order dismissing  
30 some, but not all, of the parties or disposing of some, but not all, of the issues  
31 in an action may be appealed within the time for appealing from the judgment  
32 that finally disposes of all remaining parties and issues to an action, even if the  
33 parties' interests or the issues are severable.

34 . . . .

1        **Comment:** This amendment to rule 6.101(1)(c) and a corresponding  
2 amendment to rule 1.904 serve the same purpose. They are intended to  
3 supersede prior caselaw that held a timely rule 1.904(2) motion must also  
4 have been “proper” to extend the time for appeal. See, e.g., *Hedlund v. State*,  
5 875 N.W.2d 720, 725 (Iowa 2016). To obviate controversies over whether a  
6 rule 1.904(2) motion tolls the time for appeal, the amended rule 6.101 now  
7 authorizes any timely rule 1.904(2) motion to extend the appeal deadline,  
8 subject to an exception for successive motions.

9        Under the amendment, the timely filing of a rule 1.904(2) motion  
10 extends the deadline for filing a notice of appeal or an application for  
11 interlocutory appeal. See Iowa R. App. P. 6.101(1)(b) & 6.104(1)(b)(2).  
12 However, the amended rule does not address whether a rule 1.904(2) motion  
13 preserves error for purposes of appeal as to evidence or arguments raised for  
14 the first time in that motion. See, e.g., *Tenney v. Atlantic Associates*, 594  
15 N.W.2d 11, 14 (Iowa 1999). The amended rule also is not intended to affect  
16 prior caselaw concerning a court’s inherent authority to reconsider. See *Iowa*  
17 *Elec. Light & Power Co. v. Lagle*, 430 N.W.2d 393, 395–96 (Iowa 1988).  
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