

1 **Rule 8. Stay or injunction pending appeal.**

2 (a) ~~Motion for stay.~~ Stay or injunctive relief.

3 (1) ~~Initial motion in the trial court.~~ Available relief. A party ~~must ordinarily may~~
4 move ~~first in the trial~~ appellate court for the following relief:

5 ~~(A) a stay of the judgment or order without security~~ pending appeal or pending
6 disposition of a petition under Rule ~~5;~~ 5 or Rule 19:

7 ~~(B) approval of a bond or other security provided to obtain~~

8 (A) a stay of the judgment or order with or without security; or

9 ~~(B)~~ an order suspending, modifying, restoring, or granting ~~an injunction while~~
10 ~~an appeal is pending, unless the~~ injunctive relief.

11 (2) Initial motion in trial court. Before seeking relief in the appellate court under this
12 rule, a party must first seek the requested relief in the trial court unless the party can
13 show extraordinary circumstances or that the trial court has already rejected the basis
14 for the requested relief.

15 ~~(2b) Motion in the appellate court.~~

16 ~~(A) The motion for a stay~~ requirements. Motions filed under this rule must include:

17 ~~(i)~~ the ~~reasons~~ content required by Rule 23(a); and

18 (2) as applicable, the reason the trial court denied the ~~request;~~

19 ~~(ii) the reasons for granting the relief requested and the facts relied on;~~

20 ~~(iii) copies of affidavits or declarations, supporting facts subject to dispute; and~~

21 ~~(iv) relevant parts of the record, including a copy of the trial court's order.~~

22 ~~(B) Any motion must comply with Rule 23.~~

23 ~~(C) Except in extraordinary circumstances, an appellate court will not act on a motion to~~
24 ~~stay a judgment or order or to suspend, modify, restore, or grant an injunction, unless the~~
25 ~~movant first requested a stay or opposed the injunction in the trial~~ relief, the reason the

26 trial court denied the basis for the requested relief, or the extraordinary circumstances
27 justifying seeking relief for the first time in the appellate court.

28 ~~(3) Stays~~ **(c) Security requirement.**

29 (1) Except as provided in paragraphs (c)(2) and (c)(3), the appellate court ordinarily
30 will require the movant to give a bond or other appropriate security as a condition of
31 the requested relief.

32 (2) In the case of a stay, the court may waive the requirement for a bond or other
33 security if the movant demonstrates:

34 (A) a likelihood of prevailing on appeal;

35 (B) a likelihood of irreparable harm to the movant outweighing the harm to any
36 other party; and

37 (C) the stay is not adverse to the public interest.

38 (3) In the case of an injunction, the court may waive the requirement for a bond or
39 other security if the movant demonstrates:

40 (A) a substantial likelihood of prevailing on appeal;

41 (B) the movant will suffer irreparable harm without the injunction;

42 (C) the irreparable harm to the movant outweighs whatever harm the injunction
43 may cause the party enjoined; and

44 (D) the injunction is not adverse to the public interest.

45 **(d) Stay in criminal cases.** Stays pending appeal in criminal cases in which the defendant
46 has been sentenced are governed by Utah Code section ~~77-20-302~~77-20-302 and Rule ~~2727~~
47 of the Utah Rules of Criminal Procedure. Stays in other criminal cases are governed by
48 this rule.

49 ~~(b) Bond requirement.~~

50 ~~(1) Stay ordinarily conditioned upon giving a bond. For requests to stay enforcement of~~
51 ~~a judgment or order to pay money to which Rule 62 of the Utah Rules of Civil Procedure~~
52 ~~applied in the trial court, relief available pending appeal will be conditioned upon giving~~
53 ~~a bond or other appropriate security in the trial court, unless there is no reasonable means~~
54 ~~of quantifying the security in monetary or other terms and the conditions of paragraph~~
55 ~~(b)(2) are met.~~

56 ~~(2) Stay in cases not conditioned on giving a bond. Ordinarily a stay without a bond or~~
57 ~~other security will not be granted unless the movant demonstrates a likelihood of success~~
58 ~~on the merits or the case presents serious issues on the merits warranting appellate~~
59 ~~review and the appellant demonstrates:~~

60 ~~(A) a likelihood of irreparable harm to the movant outweighing the harm to any other~~
61 ~~party and the stay would not be adverse to the public interest; or~~

62 ~~(B) an extraordinary circumstance that justifies issuing a stay.~~

63 ~~(c) **Injunctions.** For requests for injunctive relief to which Rules 65A or 62 of the Utah~~
64 ~~Rules of Civil Procedure applied in the trial court, any relief available pending appeal is~~
65 ~~governed by those rules.~~

66 *Effective May 1, 2023*

67 **Advisory Committee Note**

68 ~~“Declaration” refers to an unsworn declaration as described in Title 78B, Chapter 18a,~~
69 ~~Uniform Unsworn Declarations Act.~~

70 *Adopted 2022*