

**Rule 62. Stay of proceedings to enforce a judgment or order.**

*Effective:*

(a) **Delay in execution.** No execution or other writ to enforce a judgment or an order to pay money under [Rule 7\(j\)\(8\)](#) may issue until the expiration of 28 days after entry of the judgment or order, unless the court in its discretion otherwise directs.

(b) **Stay by bond or other security; duration of stay.** Except as provided in paragraph (j), at any time after judgment or an order to pay money is entered, a party may obtain a stay by providing a bond or other security. ~~A party may obtain a stay of the enforcement of a judgment or order to pay money by providing a bond or other security, unless a stay is otherwise prohibited by law or these rules.~~

(1) The stay takes ~~a~~effect when the court approves the bond or other security and remains in effect for the time specified in the order that approves the bond or other security.

(2) In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay:

(A) an order that is certified as final under Rule 54(b) until the entry of a final judgment under [Rule 58A](#);

(B) an order to pay money under [Rule 7\(j\)\(8\)](#) until the entry of a judgment under [Rule 58A](#);

(C) a judgment until resolution of any motion made pursuant to [Rule 50\(b\)](#), [Rule 52\(b\)](#), [Rule 59](#), [Rule 60](#), or [Rule 73](#); and

(D) a judgment until resolution of a motion made under this rule.

(c) **Injunction pending appeal.** When a party seeks an appeal from an interlocutory order, or takes an appeal from a judgment, granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the

pendency of appellate proceedings upon such conditions for the security of the rights of the adverse party as are just.

(d) **Stay in favor of the United States, the State of Utah, or political subdivision.** When an appeal is taken by the United States, the State of Utah, a political subdivision, or an officer of agency of any of those entities, or by direction of any department of any of those entities, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security is required from the appellant.

(e) **Stay in quo warranto proceedings.** Where the defendant is adjudged guilty of usurping, intruding into or unlawfully holding public office, civil or military, within this state, the execution of the judgment ~~will~~shall not be stayed on an appeal.

(f) **Power of appellate court not limited.** The provisions in this rule do not limit any power of an appellate court or of a judge or justice of an appellate court.

(g) **Form of bond; deposit in lieu of bond; stipulation on security; jurisdiction over sureties to be set forth in undertaking.**

(1) A bond given under ~~Subdivision~~paragraph (b) may be either a commercial bond having a surety authorized to transact insurance business under Utah Code ~~t~~Title 31A, or a personal bond having one or more sureties who are residents of Utah having a collective net worth of at least twice the amount of the bond, exclusive of property exempt from execution. Sureties on personal bonds ~~shall~~must make and file a declaration setting forth in reasonable detail the assets and liabilities of the surety.

(2) The court may permit a deposit of money in court or other security to be given in lieu of giving a bond.

(3) The parties may by written stipulation agree to the form and amount of security.

(4) A bond ~~shall~~must provide that each surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond may be served, and that the surety's

liability may be enforced on motion and upon such notice as the court may require without the necessity of an independent action.

**(h) Amount of bond or other security.**

(1) Except as provided in ~~subsection~~paragraph (h)(2), a court ~~shall~~will set the bond or other security in an amount that adequately protects the adverse party against loss or damage occasioned by the stay and assures payment after the stay ends. In setting the amount, the court may consider any relevant factor including:

(A) the debtor's ability to pay the judgment or order to pay money;

(B) the existence and value of other security;

(C) the debtor's opportunity to dissipate assets;

(D) the debtor's likelihood of success on appeal; and

(E) the respective harm to the parties from setting a higher or lower amount.

(2) Notwithstanding ~~paragraph~~subsection (h)(1):

(A) the presumptive amount of a bond or other security for compensatory damages is the amount of the compensatory damages plus costs and attorney fees; as applicable, plus ~~three~~<sup>3</sup> years of interest at the applicable interest rate;

(B) the bond or other security for compensatory damages ~~shall~~must~~may~~ not exceed \$25 million in an action by the plaintiffs certified as a class under Rule 23 or in an action by multiple plaintiffs in which compensatory damages are not proved for each plaintiff individually; and

(C) no bond or other security ~~shall~~is~~be~~ required for punitive damages.

(3) If the court permits a bond or other security that is less than the presumptive amount in ~~subsection~~paragraph (h)(2)(A), the court may enter such orders as are necessary to protect the adverse party during the stay.

(4) If the court finds that the party seeking the stay has violated an order or has otherwise dissipated assets, the court may set the amount of the bond or other security without regard to the presumptive amount under ~~subsection~~paragraph (h)(~~2~~)(A) and limits in ~~subsection~~paragraph (h)(2)(B).

(i) **Objecting to sufficiency or amount of security.** Any party whose judgment or order to pay money is stayed or sought to be stayed pursuant to ~~paragraph~~Subdivision (b) may object to the sufficiency of the sureties on a bond or the amount thereof, or to the sufficiency of amount of other security given to stay the judgment by filing and giving notice of such objection. Either party ~~shall~~is ~~be~~ entitled to a hearing on the objection upon five days notice or such shorter time as the court may order. The burden is on the party seeking the stay to ~~of~~ justify~~ing~~ the sufficiency of the sureties or other security and the amount of the bond ~~or~~f other security, ~~shall be borne by the party seeking the stay,~~ unless the objecting party seeks a bond or other security in an amount greater than the presum~~ptive~~ed amount in ~~subsection~~paragraph (h)(2)(A). The fact that a bond, its surety, or other security is generally permitted under this rule ~~shall~~is not ~~be~~ conclusive as to its sufficiency or amount.

(j) Domestic relations actions.

(1) Child custody, parent-time orders, child support orders.

(A) The court may not stay a child custody or parent-time order during an appeal, except that a court may stay an order that a child relocate outside the state of Utah if the court finds that such a stay is in the child's best interest;

(B) The court may not stay the collection of child support obligations during an appeal, except that the court may stay the collection of child support arrearages if the appellant provides a bond or other security approved by the court;

(2) Divorce orders.

101 (A) The court may not stay the collection of alimony during an appeal, except that  
102 the court may stay the collection of alimony arrearages if the appellant provides a  
103 bond or other security approved by the court;

104 (B) The court may stay an order distributing marital property during an appeal  
105 only to the extent necessary to protect marital property from dissipation.

106 (C) If the court enters a stay under paragraph (j)(2)(B), the court may:

107 (i) order an equitable transfer of property;

108 (ii) enjoin a party from selling, transferring, collateralizing, or otherwise  
109 encumbering property; and

110 (iii) require a party to provide a bond or other security.

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