

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

2 **Effective:**

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

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

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

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

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

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

20 (C) a judgment until resolution of any motion made pursuant to [Rule 50\(b\)](#), [Rule](#)
21 [52\(b\)](#), [Rule 59](#), [Rule 60](#), or [Rule 73](#); and

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

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

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

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

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

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

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

40 (1) A bond given under ~~Subdivision~~paragraph (b) may be either a commercial bond
41 having a surety authorized to transact insurance business under ~~Utah Code~~title
42 31A, or a personal bond having one or more sureties who are residents of Utah having
43 a collective net worth of at least twice the amount of the bond, exclusive of property
44 exempt from execution. Sureties on personal bonds ~~shall~~must make and file a
45 declaration setting forth in reasonable detail the assets and liabilities of the surety.

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

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

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

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

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

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

59 (A) the debtor's ability to pay the judgment or order to pay money;
60 (B) the existence and value of other security;
61 (C) the debtor's opportunity to dissipate assets;
62 (D) the debtor's likelihood of success on appeal; and
63 (E) the respective harm to the parties from setting a higher or lower amount.

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

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

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

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

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

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

80 (i) **Objecting to sufficiency or amount of security.** Any party whose judgment or order
81 to pay money is stayed or sought to be stayed pursuant to ~~paragraph~~Subdivision (b) may
82 object to the sufficiency of the sureties on a bond or the amount thereof, or to the
83 sufficiency of amount of other security given to stay the judgment by filing and giving
84 notice of such objection. Either party ~~shall~~is ~~be~~ entitled to a hearing on the objection upon
85 five days notice or such shorter time as the court may order. The burden is on the party
86 seeking the stay to ~~of~~ justify~~ing~~ the sufficiency of the sureties or other security and the
87 amount of the bond ~~or~~f other security, ~~shall be borne by the party seeking the stay~~, unless
88 the objecting party seeks a bond or other security in an amount greater than the
89 presumptive~~ed~~ amount in ~~subsection~~paragraph (h)(2)(A). The fact that a bond, its surety,
90 or other security is generally permitted under this rule ~~shall~~is ~~be~~ conclusive as to its
91 sufficiency or amount.

92 **(j) Domestic relations actions.**

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

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

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

100 (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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112 ***Effective: 11/1/2021***

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