

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

2 (a) Motion for stay.

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

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

7 (B) approval of a bond or other security provided to obtain a stay of the judgment  
8 or order; or

9 (C) an order suspending, modifying, restoring, or granting an injunction while an  
10 appeal is pending, unless the trial court has already rejected the basis for the  
11 requested relief.

12 (2) Motion in the appellate court.

13 (A) The motion for a stay must include:

14 (i) the reasons the trial court denied the request;

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

16 (iii) copies of affidavits or other sworn statements supporting facts subject  
17 to dispute; and

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

19 (B) Any motion must comply with Rule 23.

20 (C) Except in extraordinary circumstances, an appellate court will not act on a  
21 motion to stay a judgment or order or to suspend, modify, restore, or grant an  
22 injunction, unless the movant first requested a stay or opposed the injunction in the  
23 trial court.

24 ~~(e)(3) Stays in criminal cases. Stays pending appeal in criminal cases in which the~~  
25 ~~defendant has been sentenced are governed by Utah Code Ann. Section 77-20-10 and Rule~~  
26 ~~27, of the Utah Rules of Criminal Procedure. Stays in other criminal cases are governed~~  
27 ~~by this rule.~~

28 ~~(a) Stay must ordinarily be sought in the first instance in trial court; motion for stay in~~  
29 ~~appellate court.~~ Application for a stay of the judgment or order of a trial court pending appeal, or  
30 ~~disposition of a petition under Rule 5, or for approval of a supersedeas bond, or for an order~~  
31 ~~suspending, modifying, restoring, or granting an injunction during the pendency of an appeal must~~  
32 ~~ordinarily be made in the first instance in the trial court. A motion for such relief may be made to~~  
33 ~~the appellate court, but the motion shall show that application to the trial court for the relief sought~~  
34 ~~is not practicable, or that the trial court has denied an application, or has failed to afford the relief~~  
35 ~~which the applicant requested, with the reasons given by the trial court for its action. The motion~~  
36 ~~shall also show the reasons for the relief requested and the facts relied upon, and if the facts are~~  
37 ~~subject to dispute, the motion shall be supported by affidavits or other sworn statements or copies~~  
38 ~~thereof. With the motion shall be filed such parts of the record as are relevant, including a copy of~~  
39 ~~the order sought to be stayed. Any motion for stay shall be filed under rule 23.~~

40 (b) Bond requirement.

41 (1) Stay ordinarily conditioned upon giving a bond. For requests for relief to which Rule  
42 62(d) of the Utah Rules of Civil Procedure applied in the trial court, relief available pending  
43 appeal will be conditioned upon giving a bond or other appropriate security in the trial  
44 court, unless there is no reasonable means of quantifying the security in monetary or other  
45 terms and the conditions of paragraph (b)(2) are met.

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

50 (A) a likelihood of irreparable harm to the movant outweighing the harm to any  
51 other party and the stay would not be adverse to the public interest, or

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

53 ~~(b) Stay may be conditioned upon giving of bond.~~ Relief available in the appellate court under  
54 ~~this rule may be conditioned upon the filing of a bond or other appropriate security in the trial~~  
55 ~~court.~~

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

58 ~~(e) **Stays in criminal cases.** Stays pending appeal in criminal cases in which the defendant has~~  
59 ~~been sentenced are governed by Utah Code Ann. Section 77-20-10 and Rule 27, Utah R. Crim. P.~~  
60 ~~Stays in other criminal cases are governed by this rule.~~

61