

1 Rule 62. Stay of proceedings to enforce a judgment.

2 (a) ~~Stay upon entry of judgment. Execution or other proceedings to enforce a~~
3 ~~judgment may issue immediately upon the entry of the final judgment, Delay in~~
4 ~~execution. No execution or other writ to enforce a judgment may issue until the~~
5 ~~expiration of ten days after entry of judgment, unless the court in its discretion ~~and on~~~~
6 ~~such conditions for the security of the adverse party as are proper, otherwise directs.~~

7 (b) Stay on motion for new trial or for judgment. In its discretion and on such
8 conditions for the security of the adverse party as are proper, the court may stay the
9 execution of, or any proceedings to enforce, a judgment pending the disposition of a
10 motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a
11 motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for
12 judgment in accordance with a motion for a directed verdict made pursuant to Rule 50,
13 or of a motion for amendment to the findings or for additional findings made pursuant to
14 Rule 52(b).

15 (c) Injunction pending appeal. When an appeal is taken from an interlocutory order
16 or final judgment granting, dissolving, or denying an injunction, the court in its discretion
17 may suspend, modify, restore, or grant an injunction during the pendency of the appeal
18 upon such conditions as it considers proper for the security of the rights of the adverse
19 party.

20 (d) Stay upon appeal. When an appeal is taken, the appellant by giving a
21 supersedeas bond may obtain a stay, unless such a stay is otherwise prohibited by law
22 or these rules. The bond may be given at or after the time of filing the notice of appeal.
23 The stay is effective when the supersedeas bond is approved by the court.

24 (e) Stay in favor of the state, or agency thereof. When an appeal is taken by the
25 United States, the state of Utah, or an officer or agency of either, or by direction of any
26 department of either, and the operation or enforcement of the judgment is stayed, no
27 bond, obligation, or other security shall be required from the appellant.

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

31 (g) Power of appellate court not limited. The provisions in this rule do not limit any
32 power of an appellate court or of a judge or justice thereof to stay proceedings or to
33 suspend, modify, restore, or grant an injunction, or extraordinary relief or to make any
34 order appropriate to preserve the status quo or the effectiveness of the judgment
35 subsequently to be entered.

36 (h) Stay of judgment upon multiple claims. When a court has ordered a final
37 judgment on some but not all of the claims presented in the action under the conditions
38 stated in Rule 54(b), the court may stay enforcement of that judgment until the entering
39 of a subsequent judgment or judgments and may prescribe such conditions as are
40 necessary to secure the benefit thereof to the party in whose favor the judgment is
41 entered.

42 (i) Form of supersedeas bond; deposit in lieu of bond; waiver of bond; jurisdiction
43 over sureties to be set forth in undertaking.

44 (i)(1) A supersedeas bond given under Subdivision (d) may be either a commercial
45 bond having a surety authorized to transact insurance business under Title 31A, or a
46 personal bond having one or more sureties who are residents of Utah having a
47 collective net worth of at least twice the amount of the bond, exclusive of property
48 exempt from execution. Sureties on personal bonds shall make and file an affidavit
49 setting forth in reasonable detail the assets and liabilities of the surety.

50 (i)(2) Upon motion and good cause shown, the court may permit a deposit of money
51 in court or other security to be given in lieu of giving a supersedeas bond under
52 Subdivision (d).

53 (i)(3) The parties may by written stipulation waive the requirement of giving a
54 supersedeas bond under Subdivision (d) or agree to an alternate form of security.

55 (i)(4) A supersedeas bond given pursuant to Subdivision (d) shall provide that each
56 surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the
57 court as the surety's agent upon whom any papers affecting the surety's liability on the
58 bond may be served, and that the surety's liability may be enforced on motion and upon
59 such notice as the court may require without the necessity of an independent action.

60 (j) Amount of supersedeas bond.

61 (j)(1) Except as provided in subsection (j)(2), a court shall set the supersedeas bond
62 in an amount that adequately protects the judgment creditor against loss or damage
63 occasioned by the appeal and assures payment in the event the judgment is affirmed. In
64 setting the amount, the court may consider any relevant factor, including:

65 (j)(1)(A) the judgment debtor's ability to pay the judgment;

66 (j)(1)(B) the existence and value of security;

67 (j)(1)(C) the judgment debtor's opportunity to dissipate assets;

68 (j)(1)(D) the judgment debtor's likelihood of success on appeal; and

69 (j)(1)(E) the respective harm to the parties from setting a higher or lower amount.

70 (j)(2) Notwithstanding subsection (j)(1):

71 (j)(2)(A) the presumptive amount of a bond for compensatory damages is the
72 amount of the compensatory damages plus costs and attorney fees, as applicable, plus
73 3 years of interest at the applicable interest rate;

74 (j)(2)(B) the bond for compensatory damages shall not exceed \$25 million in an
75 action by plaintiffs certified as a class under Rule 23 or in an action by multiple plaintiffs
76 in which compensatory damages are not proved for each plaintiff individually; and

77 (j)(2)(C) no bond shall be required for punitive damages.

78 (j)(3) If the court permits a bond that is less than the presumptive amount of
79 compensatory damages, the court may also enter such orders as are necessary to
80 protect the judgment creditor during the appeal.

81 (j)(4) If the court finds that the judgment debtor has violated an order or has
82 otherwise dissipated assets, the court may set the bond under subsection (j)(1) without
83 regard to the limits in subsection (j)(2).

84 (k) Objecting to sufficiency or amount of security. Any party whose judgment is
85 stayed or sought to be stayed pursuant to Subdivision (d) may object to the sufficiency
86 of the sureties on the supersedeas bond or the amount thereof, or to the sufficiency or
87 amount of other security given to stay the judgment by filing and giving notice of such
88 objection. The party so objecting shall be entitled to a hearing thereon upon five days
89 notice or such shorter time as the court may order. The burden of justifying the
90 sufficiency of the sureties or other security and the amount of the bond or other security,
91 shall be borne by the party seeking the stay, unless the objecting party seeks a bond

92 greater than the presumed limits of this rule. The fact that a supersedeas bond, its
93 surety or other security is generally permitted under this rule shall not be conclusive as
94 to its sufficiency or amount.

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