

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

2 (a) **Delay in execution.** No execution or other writ to enforce a judgment may issue
3 until the expiration of ~~ten~~14 days after entry of judgment, unless the court in its
4 discretion otherwise directs.

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

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

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

22 (e)(1) **Stay in favor of the state, or agency thereof.** When an appeal is taken
23 by the United States, the state of Utah, or an officer or agency of either, or by
24 direction of any department of either, and the operation or enforcement of the
25 judgment is stayed, no bond, obligation, or other security shall be required from the
26 appellant.

27 (e)(2) For purposes of this rule, a municipality shall not be considered a state
28 agency exempt from the requirement of posting a bond, obligation, or other security
29 when appealing a judgment for any amounts in excess of \$5,000,000. To stay the
30 enforcement of any judgment over \$5,000,000, the municipality shall be required to

31 post security with the appellate court in the amount by which the judgment exceeds
32 the sum of \$5,000,000 and for any interest that may accrue during the appeal.

33 (f) **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 shall not be stayed on an appeal.

36 (g) **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 thereof to stay proceedings or to
38 suspend, modify, restore, or grant an injunction, or extraordinary relief or to make any
39 order appropriate to preserve the status quo or the effectiveness of the judgment
40 subsequently to be entered.

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

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

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

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

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

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

66 **(j) Amount of supersedeas bond.**

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

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

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

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

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

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

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

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

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

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

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

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

93 (k) **Objecting to sufficiency or amount of security.** Any party whose judgment is
94 stayed or sought to be stayed pursuant to Subdivision (d) may object to the sufficiency or
95 of the sureties on the supersedeas bond or the amount thereof, or to the sufficiency or
96 amount of other security given to stay the judgment by filing and giving notice of such
97 objection. The party so objecting shall be entitled to a hearing thereon upon five days
98 notice or such shorter time as the court may order. The burden of justifying the
99 sufficiency of the sureties or other security and the amount of the bond or other security,
100 shall be borne by the party seeking the stay, unless the objecting party seeks a bond
101 greater than the presumed limits of this rule. The fact that a supersedeas bond, its
102 surety or other security is generally permitted under this rule shall not be conclusive as
103 to its sufficiency or amount.

104 [Advisory Committee Notes](#)

105