

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  
4 court for the following relief:

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

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

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

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

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

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

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

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

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

43 (b) Bond requirement.

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

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

54 (A) a likelihood of irreparable harm to the movant outweighing the harm  
55 to any other party and the stay would not be adverse to the public interest;  
56 or

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

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

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

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

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68 Effective November 1, 2020