

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
4 trial 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 declarations ~~or other sworn statements~~
18 supporting facts 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
25 the injunction in the trial court.

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

30 **(b) Bond requirement.**

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

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

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

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

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

48 [Advisory Committee Note](#)

49 ["Declaration" refers to an unsworn declaration as described in Title 78B, Chapter 18a,](#)
50 [Uniform Unsworn Declarations Act.](#)