

Proposed Amendments to Rule 62

Rule 62 is amended as follows:

Rule 62. Stay of Proceedings [~~To~~] **to** Enforce a Judgment

(a) Automatic Stay~~---~~; Exception ~~---~~ for Injunctions. Except as stated [~~herein~~] **in this rule** or as otherwise ordered by the court, no execution [~~shall~~] **may** issue [~~upon~~] **on** a judgment, nor [~~shall~~] **may** proceedings be taken [~~for its enforcement~~] **to enforce it**, until [~~the expiration of~~] 30 days **have passed** after its entry. [~~Unless otherwise ordered by~~] **But unless** the court **orders otherwise**, an interlocutory or final judgment in an action for an injunction [~~shall~~] **is** not [~~be~~] stayed [~~during the period~~] after [~~its entry and until~~] **being entered even if** an appeal is taken [~~or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.~~].

(b) Stay [~~on Motion for New Trial or Rehearing, or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper~~] **Pending the Disposition of a Motion.** **On appropriate terms for the opposing party's security**, the court may stay the execution of a judgment -- or any proceedings to enforce [~~a judgment pending the disposition of a motion~~] **it -- pending disposition of any of the following motions:**

(1) under Rule 50, for judgment as a matter of law;

(2) under Rule 52(b), to amend the findings or for additional findings;

(3) under Rule 59, for a new trial or rehearing or to alter or amend a

judgment [~~made pursuant to~~]; or

(4) under Rule ~~[59, or of a motion]~~ **60**, for relief from a judgment or order ~~[made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b)-].~~

(c) Injunction Pending **an Appeal**. ~~[When-]~~ **While** an appeal is ~~[taken]~~ **pending** from an interlocutory **order** or final judgment ~~[granting, dissolving, or denying]~~ **that grants, dissolves, or denies** an injunction, the court ~~[in its discretion]~~ may suspend, modify, restore, or grant an injunction ~~[during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party-]~~ **on terms for bond or other terms that secure the opposing party's rights**. If the judgment appealed from is rendered by a three-judge panel, ~~[no such]~~ **the** order ~~[shall]~~ **must** be made ~~[except]~~ **either:**

(1) by ~~[such]~~ **that** court sitting in open ~~[court]~~ **session**; or

(2) by the assent of all **its** judges ~~[of such court]~~, **as** evidenced by their ~~[signature to the order-]~~ **signatures**.

(d) Stay ~~[Upon]~~ **with Bond on Appeal**. ~~[When-]~~ **If** an appeal is taken, the appellant; ~~[by giving a supersedeas bond,]~~ may obtain a stay ~~[subject to the exception contained in subdivision (a) of this rule]~~ **by supersedeas bond, except in an action described in Rule 62(a)**. The bond may be given ~~[at]~~ **upon** or after ~~[the time of]~~ filing the notice of appeal or ~~[of procuring]~~ **after obtaining** the order allowing the appeal ~~[, as the case may be]~~. The stay ~~[is effective]~~ **takes effect when** the ~~[supersedeas bond is approved by the-]~~ court **approves the bond**.

(e) ~~Stay [in Favor of]~~ **Without Bond on an Appeal by** the United ~~[States or Agency Thereof. When an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the Government of the United States and the operation or enforcement of the judgment is stayed, no]~~ **States, Its Officers, or Its Agencies. The court must not require a** bond, obligation, or other security ~~[shall be required]~~ from the appellant **when granting a stay on an appeal by the United States, its officers, or its agencies or on an appeal directed by a department of the federal government.**

(f) Stay According to State Law. In any state in which a judgment is a lien ~~[up]~~ on ~~[the property of]~~ the judgment debtor's **property** ~~[and in which the judgment debtor is entitled to a stay of execution], [a]~~ **the** judgment debtor is entitled to ~~[such]~~ **the same** stay ~~[as would be accorded the judgment debtor had the action been maintained in the courts of that state]~~ **of execution the state court would give.**

(g) Appellate Court's Power Not Limited. **This rule does not limit the power of the appellate court or one of its judges or justices:**

(1) to stay proceedings -- or suspend, modify, restore, or grant an injunction -- while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(h) Stay [of Judgment as to] **with** Multiple Claims or ~~[Multiple]~~ Parties. **The** ~~[When the]~~ court ~~[has ordered]~~ **may stay the enforcement of** a final judgment **entered** under ~~[the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent]~~ **Rule 54(b) until it enters a later judgment** or judgments, and

may prescribe [~~such conditions as are~~] **terms** necessary to secure the benefit [~~thereof to~~]
of the stayed judgment for the party in whose favor [~~the judgment is~~] **it was** entered.

PRACTICE COMMENT: The court-ordered exception to the 30-day automatic stay under subdivision (a) is intended to permit timely enforcement of judgments in cases involving perishable merchandise, or where time is otherwise shown to be of the essence.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 21, 1986, eff. Oct 1, 1986; July 28, 1988, eff. Nov.1,1988; _____, **2008, eff.** _____, **2009.**)

Advisory Committee Note

CIT Rule 62 has been amended stylistically to conform to the 2007 amendments to the Fed. R. Civ. P. The substantive differences between certain sections of the Fed. R. Civ. P. and CIT Rule 62 recognize specific differences between district courts and the CIT. CIT Rule 62(a) maintains a 30-day stay rather than any 10-day periods found in the Fed. R. Civ. P. The changes to CIT Rule 62(b) reflect a desire to align this subdivision with Fed. R. Civ. P. 62(b). CIT Rules 62(c) and (d) present stylistic changes except in those instances which recognize the CIT's particular terminology (Rule 62(c)) or jurisdiction Rules (62(d) and 62(f)). In addition, a new subdivision (g) has been added to CIT Rule 62 to parallel Rule 62(g) of the Fed. R. Civ. P., thereby causing former CIT Rule 62(g) to be renumbered as Rule 62(h).