

## Proposed Amendments to Rule 62

Rule 62 is amended as follows:

### **Rule 62.** Stay of Proceedings to Enforce a Judgment

(a) ~~Automatic Stay; Exception for Injunctions.~~ Except as **provided in Rule 62(c) and (d)**, ~~stated in this rule or as otherwise ordered by the court, no execution on a judgment and~~ may issue on a judgment, nor may proceedings **to enforce it** be taken to enforce it, until **are stayed for** 30 days have passed after its entry, **unless the court orders otherwise.** But unless the court orders otherwise, an interlocutory or final judgment in an action for an injunction is not stayed after being entered even if an appeal is taken.

(b) ~~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 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; or~~

(4) ~~under Rule 60, for relief from a judgment or order.~~

**(b) Stay by Bond or Other Security. At any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.**

**(c) Stay of an Injunction. Unless the court orders otherwise, an interlocutory or final judgment in an action for an injunction is not stayed after being entered even if an appeal is taken.**

(e) Injunction Pending an Appeal. While an appeal is pending from an interlocutory order or final judgment that grants, **continues, modifies, refuses,** dissolves, or **refuses to dissolve or modify** ~~denies~~ an injunction, the court may suspend, modify, restore, or grant an injunction 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, the order must be made either:

(1) by that court sitting in open session; or

(2) by the assent of all its judges, as evidenced by their signatures.

~~(d) Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a). The bond may be given on or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.~~

(e) Stay without Bond on an Appeal by the United States, Its Officers, or Its Agencies. The court must not require a bond, obligation, or other security 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 on the judgment debtor's property, the judgment debtor is entitled to the same stay 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 with Multiple Claims or Parties. The court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor 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; Nov. 25, 2008, eff. Jan. 1, 2009; Nov. 25, 2009, eff. Jan. 1, 2010; \_\_\_\_\_, 2020, eff. \_\_\_\_\_, 2020.)

#### **Advisory Committee Note**

These amendments conform this rule to the current version of the Federal Rule of Civil Procedure.