

## **Rule 8. Stay or Injunction Pending Appeal.**

### **(a) Motion for Stay.**

(1) Initial Motion in the Superior Court. A party must ordinarily move first in the Superior Court for the following relief:

(A) a stay of the judgment or order;

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.

(2) Motion in the Court of Appeals. A motion for the relief mentioned in Rule 8 (a)(1) may be made to this court.

(A) The motion must:

(i) show that moving first in the Superior Court would be impracticable; or

(ii) state that, a motion having been made, the Superior Court denied the motion or failed to afford the relief requested, and state any reasons given by the Superior Court for its action.

(B) The motion must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record, including the judgment or order being appealed.

(C) The moving party must give reasonable notice of the motion to all parties. If a ruling is requested before the normal time for responses will expire, the parties must comply with Rule 4 (c)(2)(B).

(D) A motion under Rule 8 (a)(2) must be filed with the Clerk and normally will be considered by a division of the court. In an exceptional case in which time requirements make that procedure impracticable, the motion may be submitted by the Clerk to a single judge of the court for consideration and interim ruling.

### **(b) Bond or Other Security.**

(1) To preserve the status or rights of parties until the appeal is concluded, the court may impose any condition it determines necessary to prevent irreparable injury. The court may

condition relief on a party's filing a bond or other appropriate security in the Superior Court. Upon motion for cause shown, the court may also alter the amount of the bond fixed by the trial court, or may fix a bond in the event the trial court has refused to do so.

(2) If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Superior Court and irrevocably appoints the Clerk of that court as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the Superior Court without the necessity of an independent action. The motion and any notice the Superior Court prescribes may be served on the Clerk of the Superior Court, who must promptly mail a copy to each surety whose address is known.

(c) Stay in a Criminal Case. Rule 38 of the Superior Court Rules of Criminal Procedure governs a stay in a criminal case.