

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) Automatic stay; exceptions -- Injunctions, receiverships, child custody, support and visitation orders. No execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry, except (1) unless otherwise ordered by the Court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal, and (2) in matters relating to custody or support of or visitation with minor children, express provisions of a Court order inconsistent with this paragraph will supersede the automatic stay provisions of this paragraph. The provisions of paragraph (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 for judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the Court may stay the execution of, or any proceedings to enforce, a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to SCR-Dom Rel 59, or of a motion for relief from a judgment or order made pursuant to SCR-Dom Rel 60, or of a motion for amendment to the findings or for additional findings made pursuant to SCR-Dom Rel 52(b).

(c) Injunction pending appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying 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.

(d) Stay upon appeal. When an appeal is taken the appellant may obtain a stay subject to the exceptions contained in paragraph (a) of this Rule upon the posting of a supersedeas bond and service to the parties of notice that the bond has been posted. The bond shall provide security sufficient to satisfy the amount of the judgment not otherwise secured together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, unless the Court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be.

(e) Stay in favor of the United States, the District of Columbia, or agency of either. When an appeal is taken by the United States or the District of Columbia or an officer or agency of either or by direction of any governmental department of either and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) [Deleted].

(g) Power of appellate court not limited. This Rule does not limit the power of an appellate court to stay a judgment or make any other order with respect to the judgment during the pendency of an appeal.

(h) Stay of judgment as to multiple claims or multiple parties. The Court may stay enforcement of a final judgment as to fewer than all the claims or the claims of fewer than all the parties until the entry of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit of the judgment to the party in whose favor it was entered.

(i) Motion for termination of stay or for entry of judgment. If either entry of judgment or execution thereon has been stayed upon condition that a party make certain periodic payments to another party or perform other acts, and the party at any time fails to make such payments or perform such acts, the other party may move for termination of the stay or entry of judgment. Upon failure of the delinquent party timely to oppose such termination, the Clerk may terminate the stay and issue execution or enter judgment in accordance with the notice given by the motion, in the manner provided in SCR-Dom Rel 55 with respect to defaults. If opposition is filed, the notice shall be treated as an opposed motion.

COMMENT

Paragraph (a) exempts from the automatic 10 day stay provision orders relating to custody, support or visitation which by express terms are to take effect within 10 days after entry. To avoid uncertainty as to the effectiveness and enforceability of such orders, the Court should specify the date upon which its provisions take effect. Where an appellant obtains a stay pursuant to paragraph (d), the interest of justice may require that the operation or enforcement of any portion of the judgment against the appellee also be stayed.