

## **Rule 16. Execution**

### **(a) ISSUANCE OF THE WRIT.**

(1) *Nonpayment of Rent Cases.* In a case in which a judgment for possession has been entered in favor of the plaintiff based on the defendant's nonpayment of rent, a writ of restitution may issue if:

(A) the court has set a redemption amount on the record in the presence of the parties; or

(B) the plaintiff has filed a notice to tenant of payment required to avoid eviction in accordance with Rule 14-II.

(2) *All Other Cases.* In any other case, a writ of restitution may issue after entry of the judgment.

(3) *Filing Prepared Writ.* A prepared writ of restitution must be filed with the clerk at the time that the writ is ordered. If an alias writ of restitution is ordered, a prepared writ must be filed with the clerk. The clerk must deliver the original or alias writ to the United States Marshal.

(4) *Validity of the Writ.* A writ of restitution is valid for a period of 75 days.

### **(b) MOTION FOR STAY OF EXECUTION.**

(1) *In General.* A party may seek a stay of execution of a writ of restitution by either oral or written motion. The motion must include a statement that the adverse party has been notified and has been given an opportunity to appear. Prior to a hearing on the motion, the court must inquire of the clerk's office, when the defendant is self-represented, or of counsel, when movant is represented by counsel, whether or not the adverse party has been notified of the movant's intent to appear before the court on a motion for stay.

(2) *Notice.*

(A) *By Counsel.* When the movant is represented by counsel, the movant's attorney must notify the adverse party of the date and time that the motion for stay will be presented before the court.

(B) *By Clerk's Office.* When the movant is not represented by counsel, the clerk's office must notify the adverse party on the movant's behalf.

(3) *Appearance by Adverse Party.*

(A) *When the Writ is Not Executable.* If the clerk's office is notified that the adverse party intends to oppose the request for a stay or if the adverse party cannot be reached, the court must give the adverse party an opportunity to be heard if the writ of restitution is not capable of being executed.

(B) *When the Writ is Executable.* If the writ is capable of being executed, then the motion may be presented to the court, which may, in its discretion, impose a stay of execution no greater than 3 business days unless the adverse party consents to a longer stay, in order to give the adverse party an opportunity to appear before the court.

(4) *New Hearing Date.* If the court grants a stay of execution, the court must set a date for further hearing on the request. If the adverse party was absent for the motion for stay, the clerk's office must notify the adverse party by facsimile, mail, or telephone of the hearing date set by the court.

### **(c) TIME LIMIT FOR ISSUING WRIT.**

(1) *In General.* Except as provided in Rule 16(c)(2), a writ of restitution must be issued within:

- (A) 90 days after entering the judgment;
- (B) 90 days after entering a default, if a default was entered; or
- (C) 90 days after vacating a stay of execution.

(2) *With the Court's Leave*. If the writ is not issued within the time frame provided in Rule 16(c)(1), the plaintiff may file a request for issuance of the writ. The plaintiff must give the defendant notice of this request on the form provided by the clerk. The clerk will schedule a hearing in accordance with Rule 13.

(d) **AUTOMATIC STAY OF THE ENFORCEMENT OF A MONEY JUDGMENT**. A money judgment may not be executed or enforced until 14 days after its entry. Nothing in this rule should be construed to interfere with the court's right to enter a stay in accordance with Civil Rule 62(b) or with a party's right to funds deposited in accordance with Civil Rule 67.

#### COMMENT TO 2019 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The 2-day waiting period in subsections (a)(1) and (2) was deleted as unnecessary. The provision regarding a stay of execution was deleted because Civil Rule 62(b) is now made applicable by Rule 2.