

## STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

62.01: *Stay by Supersedeas Bond.* The appellant shall not be entitled to a stay of execution of the judgment pending appeal unless the appellant executes a bond with good and sufficient sureties, approved by the Clerk of Court, payable to the Clerk of Court with condition, failing the appeal, to satisfy such judgment as the appellate court may render, when the judgment is:

- (A) For the payment of money only, in an amount equal to 150% of the amount of the judgment if the judgment does not exceed ten thousand dollars (\$10,000) or 125% if the judgment exceeds ten thousand dollars (\$10,000);
- (B) For the payment of money and also for the performance of some other act or duty, or for the recovery or sale of property or the possession thereof, in such sum, in addition to the sum required for money judgments only in (A) above, as the trial court may in writing prescribe; or if appellant wishes to supersede the judgment as to the payment of money only, the requirements of (A) above shall apply;
- (C) Only for the performance of some act or duty or for the recovery or sale of property or the possession thereof (or if the judgment includes the payment of money and appellant does not wish to supersede the judgment in that respect), in such sum as the trial court may in writing prescribe.

The approval of the supersedeas bond by the Clerk of Court, unless contested by the opposing party, shall constitute a stay of the judgment when the judgment is for the payment of money only or the payment of money and some other act and the appellant wishes to supersede the judgment as to the payment of money only. In the event the Clerk of Court declines to approve the bond or approval is contested, the requirements of Local Civil Rule 62.02 below shall apply.

62.02: *Stay Must Ordinarily be Sought in the First Instance in Trial Court; Motion for Stay in Appellate Court.* In a civil action, application for a stay of the judgment or order of a trial court pending appeal or for approval of a supersedeas bond or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal must ordinarily be made in the first instance in the trial court. A motion for such relief may be made to the appellate court in which the appeal is pending, but the motion shall show that application to the trial court for the relief sought is not practicable or that the trial court has denied an application or has failed to afford the relief which the applicant requested, with the reasons given by the trial court for its action. The motion shall also show the reasons for the relief requested and the facts relied upon; if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements or copies thereof.