

RULE CHANGE 2015(01)

COLORADO APPELLATE RULES

Rule 8. Stay or Injunction Pending Appeal

Rule 27. Motions

Rule 33. Prehearing Conference

Rule 8. Stay or Injunction Pending Appeal

(a) Motions for Stay.

(1) Initial Motion in District Court Stay Must Ordinarily be Sought in the First Instance in Trial Court; Motion for Stay in Appellate Court. Application for ~~A party~~ must ordinarily move first in the district court for the following relief:

~~(A) a stay of the judgment or order of a district trial court pending appeal;~~ or for

~~(B) approval of a supersedeas bond;~~ or for

~~(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending during the pendency of an appeal must ordinarily be made in the first instance in the trial court.~~

(2) Motion in Appellate Court; Conditions on Relief. A motion for such relief under Rule 8(a)(1) may be made to the appellate court or to an appellate justice or judge, or justice thereof, but the

~~(A) any such motion must; shall show that application to~~

~~(i) show that moving first in the district trial court for the relief sought is not would be impracticable, or~~

~~(ii) show that the district trial court has denied an application, or has failed to afford the relief which the applicant requested, with and state the reasons given by the district trial court for its action.~~

~~(B) The motion must; shall also include: show~~

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

~~(ii) and if the facts are subject to dispute the motion shall be supported by originals or copies of affidavits or other sworn statements if the facts are in dispute; and or copies thereof.~~

~~(iii) With the motion shall be filed such relevant parts of the record as are relevant.~~

~~(C) The moving party must give reasonable notice of the motion shall be given to all parties.~~

~~(D) A~~The motion under this Rule 8(a)(2) shall must be filed with the clerk and normally will be considered by a panel or division of the court, but in exceptional cases where such filing procedure would be impracticable due to the requirements of time, the motion application may be made to and considered by a single justice or judge or justice of the court.

~~(E) Except as provided in Rule 8(c), the appellate court may condition relief on a party's filing a bond or other appropriate security in the district court.~~

(b) Stay May be Conditioned Upon Giving of Bond; Proceedings Against Sureties. Relief available in the appellate court under this Rule may be conditioned upon the filing of a bond or other appropriate security in the trial court. If a party gives security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the ~~trial~~ district court and irrevocably appoints the district court clerk of the trial court as the surety's his agent upon whom any documents papers affecting the surety's his liability on the bond or undertaking may be served. ~~His~~ On motion, the surety's liability may be enforced ~~on motion~~ in the district trial court without the necessity of an independent action. The motion and ~~such any notice of the motion as that~~ the district trial court prescribes may be served on the district court clerk of the trial court, who must shall forthwith mail a copyies to each the suretyies whose if their addresses isare known.

(c) When Bond Not Required. The appellate court may, in its discretion, dispense with or limit the amount of bond when the appellant is an executor, administrator, conservator, or guardian of an estate and has given sufficient bond as such. The appellate court shall not require the following to furnish bond:

(1) tThe state;;

(2) the county commissioners of the various counties;;

(3) cities;;

(4) towns; and

(5) school districts; and all

(6) charitable, educational, and reformatory institutions under the patronage or control of the state; and all

(7) public officials when suing or defending in their official capacities for the benefit of the public shall not be required to furnish bond.

(d) Bond; Release of Lien or of Notice of Lis Pendens. If a money judgment for the payment of money has been made a lien upon real estate, the lien will be released when a bond is given when a bond is given such lien shall be released thereby. The clerk of the court that granted a wherein stay has been granted shall will issue a certificate that the judgment has been stayed, and such The certificate may be recorded with the recorder of the county in which thesuch real estate is situated. TheSuch certificate may also be served upon any officer holding an execution. Upon such service, and thereupon all proceedings under such execution mustshall be discontinued, and thesuch officer mustshall return the same into the issuing court from which it was issued together with the copy of the certificate served upon the officer. him and shall set forth in his- The return must indicate what the officer has done under the execution.

Rule 27. Motions

(a) Content of Motions; Response In General.

(1) Application for Relief. Unless another form is elsewhere prescribed by these Rules, a An application for an order or other relief mustshall be made by filing a motion for such order or relief with proof of service on all other parties, unless these rules prescribe another form.

(2) Content and Service of Motion.

(A) Grounds and Relief Sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

(B) Accompanying Documents. Any affidavit or other documents necessary to support a motion must be filed with the motion, including The motion shall contain or be accompanied by any matter- documents required by a specific provision of these rRules governing such a motion; shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If the motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion.

(C) Documents Barred. The following documents are barred:

- (i) a separate brief;
- (ii) a separate notice of motion; and
- (iii) a proposed order.

(D) Service. The motion must be served on all other parties pursuant to Rule 25. A motion to consolidate an appeal with another appeal mustshall be served on all other parties in both appeals.

(3) Response to Motion.

(A) Time to File. Any party may file a response in opposition to a motion, other than a motion ~~one~~ for a procedural order pursuant to ~~{for which see section (b) of this rule.}~~ The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. In its discretion, the court may act on ~~but a~~ motions authorized by Rule C.A.R. 8, 8.1, 9, and 41 ~~may be acted upon~~ before the 7 day period runs, after reasonable notice, and the court may shorten or extend the time for responding to any motion.

(B) Cross-Motion for Affirmative Relief. A response may include a cross-motion for affirmative relief. The time to respond to the new motion for affirmative relief is governed by Rule 27(a)(3)(A). The title of the response must alert the court to the request for relief.

(b) Determination of Stipulated Motions and Motions for Procedural Orders. Notwithstanding the provisions of section (a) of this Rule as to motions generally, The court may act on a stipulated motion signed by all parties or a motions for a procedural orders, including any motion under Rule C.A.R.-26(b), may be acted upon at any time, without awaiting a response thereto. Any party adversely affected by the court's such action may file a motion to request reconsideration, vacateion, or modifyeation of such that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion specifically requesting that relief must be filed.

(c) Power of a Single Justice or Judge to Decide/Entertain a Motions. In addition to the authority expressly conferred by these rRules or by law, a single justice or judge of the appellate court may act alone on entertain and may grant or deny any request for relief which under these Rules may properly be sought by non-dispositive motions, except that a single justice or judge may not and on voluntary or uncontested dispositive motions, dismiss or otherwise determine an appeal or other proceeding. The appellate court may provide by rule or by order that only the court or a division of the court may act on any motion or class of motions must be acted upon by the court. The court or a division of the court may review the action of a single justice or judge may be reviewed by the court.

(d) Form of Motions/Papers—Number of Copies. All papers/documents and pleadings relating to motions must/shall comply with C.A.R. Rule 32. The original and ten copies shall be filed in the supreme court and the original and five copies in the court of appeals. Only the original of a motion for enlargement of time need be filed. The courts may require that additional copies be furnished.

(e) No Oral Argument. A motion will be decided without There shall not be oral argument on motions unless the court orders otherwise.

Rule 33. Prehearing Conference

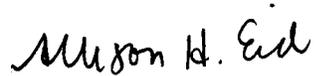
Repealed effective [January 7, 2015].

The appellate court may direct the attorneys for the parties to appear before the said court or a judge or justice thereof for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceeding by the court. The court shall make an order which recites the action taken at the conference and the agreements made by

~~the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceeding, unless modified to prevent manifest injustice.~~

Amended and Adopted by the Court, En Banc, January 7, 2015, effective immediately.

By the Court:

A handwritten signature in cursive script that reads "Allison H. Eid".

Allison H. Eid
Justice, Colorado Supreme Court